

In the Matter of:

Nicole Harris

vs.

City of Chicago, et al.

Brian Peterson, M.D.

March 11, 2016



Court Reporting Solutions

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Brian Peterson, M.D. March 11, 2016

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IN THE UNITED STATES DISTRICT COURT OF
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

* * * * *

NICOLE HARRIS,

Plaintiff,

vs. Case No. 14-CV-4391

CITY OF CHICAGO, Chicago Police Officers ROBERT
BARTIK, DEMOSTHENES BALODIMAS, ROBERT CARDARO,
JOHN J. DAY, JAMES M. KELLY, MICHAEL LANDANDO,
ANTHONY NORADIN, and RANDALL WO, Assistant Cook
County State's Attorneys ANDREA GROGAN and
LAWRENCE O'REILLY, and the COUNTY OF COOK,

Defendants.

* * * * *

VIDEOTAPED DEPOSITION OF BRIAN PETERSON, MD
TAKEN AT: Milwaukee County Medical Examiner's Office
LOCATED AT: 933 West Highland Avenue
Milwaukee, WI
March 11, 2016
9:02 a.m. to 1:28 p.m.

REPORTED BY ANITA K. FOSS
REGISTERED PROFESSIONAL REPORTER

* * * * *

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<p>1 APPEARANCES 2 PEOPLE'S LAW OFFICE, by Ms. Joey L. Mogul and 3 Ms. Jan Susler 1180 North Milwaukee Avenue, 3rd Floor 4 Chicago, IL 60642 773-235-0070 5 joeymogul@aol.com Appearing on behalf of the Plaintiff. 6 HALE LAW, LLC, by 7 Mr. Avi T. Kamionski 53 West Jackson Boulevard, Suite 330 8 Chicago, IL 60604 312-341-9646 9 akamionski@ahalelaw.com Appearing on behalf of the Defendants. 10 GREENBERG TRAURIG, by 11 Mr. Kyle L. Flynn 77 West Wacker Drive, Suite 3100 12 Chicago, IL 60601 312-476-5126 13 flynnk@gtlaw.com Appearing on behalf of the Defendants.</p> <p>14 INDEX 15 Examination by Page 16 Ms. Mogul.....4 17 EXHIBITS 18 Page 19 Exhibit No. Description Identified 20 149 Responsive documents to subpoena. . 11 21 150 List of trial testimony, report, 22 and curriculum vitae.143 23 151 Dr. Peterson's report.148 24 (Original exhibits retained by Ms. Mogul.)</p>	<p>2</p> <p>1 Harris. 2 MR. KAMIONSKI: Good morning. Avi 3 Kamionski on behalf of the individual defendants. 4 MR. FLYNN: Kyle Flynn on behalf of the 5 City of Chicago. 6 THE VIDEOGRAPHER: The court reporter, 7 Anita Foss, will now swear in the witness. 8 BRIAN PETERSON, MD, called as a 9 witness herein, having been first duly sworn on 10 oath, was examined and testified as follows: 11 EXAMINATION 12 BY MS. MOGUL: 13 Q. Can you just state your name for the 14 record, please? 15 A. Brian L. Peterson. B-R-I-A-N, 16 P-E-T-E-R-S-O-N. 17 Q. And you're a doctor? 18 A. I am. 19 MS. MOGUL: So this is the deposition of 20 Dr. Peterson in the Nicole Harris civil litigation. 21 This deposition is taken pursuant to notice and the 22 Federal Rules of Civil Procedure, and subpoena as 23 well. 24 BY MS. MOGUL:</p> <p>3</p> <p>1 TRANSCRIPT OF PROCEEDINGS 2 COURT REPORTER: What type of transcript 3 would you like? 4 MS. MOGUL: E-mail. 5 COURT REPORTER: Just an e-mail, no hard 6 copy? 7 MS. MOGUL: No. 8 MR. KAMIONSKI: Same order. 9 MR. FLYNN: No copy. 10 THE VIDEOGRAPHER: My name is Steve 11 Peters, videographer. Today I'm here on behalf of 12 DTI. This is the beginning of the video deposition 13 of Brian L. Peterson, M.D., on March 11, 2016. The 14 time, 9:02 a.m. This is the case concerning Nicole 15 Harris, plaintiff, versus City of Chicago, et al., 16 defendants, case number 14-CV-4391, pending in the 17 United States District Court for the Northern 18 District of Illinois, Eastern Division. 19 Will counsel now please state 20 their appearances, starting with the plaintiff. 21 MS. MOGUL: Good morning. My name is 22 Joey Mogul, and I am one of the counsel for the 23 plaintiff, Ms. Nicole Harris. 24 MS. SUSLER: Jan Susler also for Nicole</p> <p>4</p> <p>1 Q. Doctor, this is not the first time you've 2 taken a deposition; am I correct? 3 A. You're correct. 4 Q. Yes. How many depositions have you 5 taken? 6 A. Dozens and dozens. 7 Q. Dozens and dozens. Okay. So would you 8 say you've done more than a hundred depositions? 9 A. I've certainly done more than a hundred 10 trials. Depositions, probably under a hundred, but 11 it wouldn't be a lot under a hundred. 12 Q. So we're saying more like somewhere 13 between 75 and 100? 14 A. I think that's reasonable. 15 Q. And in terms of the times you've 16 testified, how many times have you testified? 17 A. At this point, over 600 times. 18 Q. Okay. So just to go over the ground 19 rules of a deposition. As you can see, 20 everything's both being taken down by the court 21 reporter as well as the videographer, but I need 22 all your answers to be oral so that the court 23 reporter can get it down. Nods of the head are 24 often less straightforward when it comes to the</p>
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<p>1 transcript, okay?</p> <p>2 A. We can skip that if you want to. I know.</p> <p>3 Q. Okay. Well, is there any -- okay, let me</p> <p>4 say this. It's going to take me a minute to spit</p> <p>5 out my questions, so please let me do so and I'll</p> <p>6 let you give your answers, okay?</p> <p>7 A. I understand.</p> <p>8 Q. And if there's a question I ask and you</p> <p>9 answer it, we're going to assume that you</p> <p>10 understood my question and you're answering it</p> <p>11 correctly; is that fair?</p> <p>12 A. I understand that too.</p> <p>13 Q. Okay. Is there any medication or medical</p> <p>14 condition that you have that prevents you from</p> <p>15 understanding and answering my questions correctly</p> <p>16 today?</p> <p>17 A. No.</p> <p>18 Q. Okay. What documents did you review to</p> <p>19 prepare for your deposition today?</p> <p>20 A. In addition to reviewing the report that</p> <p>21 I authored -- well, this morning I simply reviewed</p> <p>22 the report that I authored, put it that way.</p> <p>23 Q. Okay. Did you do anything else to</p> <p>24 prepare for your deposition today?</p>	<p>6</p> <p>1 Q. -- related to this case?</p> <p>2 A. No.</p> <p>3 Q. You didn't read the report or the opinion</p> <p>4 of Dr. Stevens?</p> <p>5 A. I had seen Dr. Stevens' report before I</p> <p>6 issued this document, I think. And you're correct,</p> <p>7 I did read more of his material after. I did.</p> <p>8 Q. Okay. So those things weren't included</p> <p>9 in your report?</p> <p>10 A. Correct.</p> <p>11 Q. But you had read Dr. Stevens' report</p> <p>12 prior to drafting your report?</p> <p>13 A. Right.</p> <p>14 Q. So that was missing; correct?</p> <p>15 A. Yes.</p> <p>16 Q. So I'm going to -- have you reviewed</p> <p>17 anything else?</p> <p>18 A. No.</p> <p>19 Q. What's your current title?</p> <p>20 A. Chief medical examiner for Milwaukee</p> <p>21 County.</p> <p>22 Q. And how long have you held that position?</p> <p>23 A. I've been the chief for about five years</p> <p>24 now.</p>
<p>1 A. No.</p> <p>2 Q. And so the only time you spent getting</p> <p>3 ready for this deposition was this morning in</p> <p>4 reviewing your report?</p> <p>5 A. In terms of what I did today, that's all</p> <p>6 I did this morning, was review my report.</p> <p>7 Q. What I'm asking is, what have you done to</p> <p>8 prepare for this deposition, regardless of just</p> <p>9 this morning?</p> <p>10 A. I had a conversation with Mr. Kamionski</p> <p>11 yesterday morning.</p> <p>12 Q. Okay. And was that conversation in</p> <p>13 person or over the phone?</p> <p>14 A. Over the phone.</p> <p>15 Q. And how long was that conversation?</p> <p>16 A. I think 15 or 20 minutes.</p> <p>17 Q. Okay. Other than speaking with</p> <p>18 Mr. Kamionski for 15 to 20 minutes and reviewing</p> <p>19 your report, have you done anything else to prepare</p> <p>20 for your deposition today?</p> <p>21 A. No.</p> <p>22 Q. Since you issued your report, have you</p> <p>23 reviewed any other documents --</p> <p>24 A. No.</p>	<p>7</p> <p>1 Q. And is it fair to say that you work with</p> <p>2 the police on a daily basis?</p> <p>3 A. I wouldn't say daily. Police oftentimes</p> <p>4 attend autopsies for the various counties that we</p> <p>5 serve, but we don't have those kind of autopsies</p> <p>6 every day.</p> <p>7 Q. Okay.</p> <p>8 A. But on a regular basis.</p> <p>9 Q. Do you have them on a weekly basis?</p> <p>10 A. We probably do.</p> <p>11 Q. And is it fair to say probably on a more</p> <p>12 than once a week basis?</p> <p>13 A. It's feast or famine. It's kind of hard</p> <p>14 to predict. You know, on a day like Monday, when</p> <p>15 we've had six homicides, we had police here all</p> <p>16 day. On a day like today, we have one officer here</p> <p>17 from an outside county. So it's variable.</p> <p>18 Q. But you work with police at least on a</p> <p>19 weekly basis?</p> <p>20 A. I do.</p> <p>21 Q. In terms of Milwaukee county, what</p> <p>22 counties -- or what areas do you serve?</p> <p>23 A. So our primary service area is Milwaukee</p> <p>24 county. And then in terms of outside counties,</p>

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<p>1 Ozaukee county, Kenosha county, Racine county, 2 Jefferson county. We also do cases for the State 3 of Wisconsin; they have a state prion disease 4 monitor, so we do cases of Creutzfeldt-Jakob 5 disease, CJD, and some private autopsies as well.</p> <p>6 Q. You say CDJ? 7 A. CJD. Creutzfeldt-Jakob disease.</p> <p>8 Q. Okay. So what kind of autopsies do you 9 do for the State of Wisconsin?</p> <p>10 A. Those cases, we're simply recovering the 11 brains and sending those to the National Prion 12 Disease Center in Cleveland, to Case Western.</p> <p>13 Q. I see. Okay. And the cases you do for 14 Milwaukee county and the other counties you listed, 15 that was -- or, sorry, areas. Other than Milwaukee 16 county, are there any other counties you serve?</p> <p>17 A. Not on a regular basis. We have 18 contracts with the ones that I mentioned.</p> <p>19 Q. Okay. 20 A. In Milwaukee, in Milwaukee county, we 21 have a tertiary care hospital, Froedtert Hospital. 22 So they will receive cases sometimes, even from out 23 of state, northern Illinois, for example. And if 24 those patients pass away, they'll often come to us</p>	<p>10</p> <p>1 1 to the subpoena that we were given. 2 MS. MOGUL: Sorry, guys, I don't have 3 full copies. I'm assuming you brought your own. 4 MR. KAMIONSKI: We're fine.</p> <p>5 BY MS. MOGUL:</p> <p>6 Q. I'm going to direct your attention to 7 page 39 of this. 8 A. We're looking at the Bates stamp 39? 9 Q. Yes. 10 A. Gotcha. Okay.</p> <p>11 Q. Okay. So this is from the Department of 12 State, the consular notification and access manual. 13 A. That's what it looks like.</p> <p>14 Q. Did you have anything to do with 15 authoring this manual? 16 A. Nope.</p> <p>17 Q. Do you know why you included this in 18 response to the subpoenaed documents? 19 A. Nope.</p> <p>20 Q. Have you read this manual before? 21 A. Never.</p> <p>22 Q. Okay. And is this the first time you've 23 seen it? 24 A. I believe this is part of our office</p>
<p>11</p> <p>1 for autopsy. But that's more sporadic. The other 2 counties that I mentioned, we actually have 3 contracts with and do all their forensic autopsies.</p> <p>4 Q. You said you also do private autopsies? 5 A. We do some here. Occasionally there'll 6 be a case that perhaps doesn't fall within the 7 medical examiner's jurisdiction, but a family will 8 ask us to do that. We will call that a private 9 case.</p> <p>10 Q. Now, in response to a subpoena issued by 11 the plaintiff, you provided a series of materials 12 in response to that subpoena; correct?</p> <p>13 A. I did.</p> <p>14 Q. And one of those materials included part 15 of the consular notification process; does that 16 ring a bell?</p> <p>17 A. You'd have to further define that for me. 18 I'm just a doctor.</p> <p>19 Q. Okay. Well, I guess we'll just mark 20 this. What are we, 149?</p> <p>21 (Exhibit 149 marked for identification.)</p> <p>22 BY MS. MOGUL:</p> <p>23 Q. I'm going to show you what I'm marking as 24 Exhibit 149, which is all the responsive documents</p>	<p>11</p> <p>13</p> <p>1 policy and procedure, because we occasionally get 2 foreign nationals here. So we reference this in 3 our policy and procedure; we don't include this 4 whole thing, it's simply too much paper. So I 5 believe if you look at our policy and procedures 6 online, it would be a hot link.</p> <p>7 Q. Okay. And so I'm going to just ask, have 8 you ever read this full document? 9 A. No, just portions.</p> <p>10 Q. Okay. Now you, at the beginning of your 11 deposition, referenced several times you've given 12 testimony in a case; right? 13 A. I have.</p> <p>14 Q. And have you ever been given -- okay. 15 Strike that. Every time you've provided testimony 16 in a case, has it always been as a medical 17 examiner? 18 A. I think I had to testify in a case one 19 time where I had some property stolen before I was 20 a medical examiner, so I was essentially a lay, 21 percipient witness at that point. But 22 professionally, my title hasn't always been medical 23 examiner, but I've always testified as a forensic 24 pathologist.</p>

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<p style="text-align: right;">14</p> <p>1 Q. Okay. Have you ever been the subject of 2 a Daubert or Frye motion to limit or preclude your 3 testimony at trial?</p> <p>4 A. I think if you look back at my testimony 5 record, I testified at a Daubert hearing in 2014. 6 But after that, I went ahead and testified at the 7 trial, so -- that was it.</p> <p>8 Q. That's in the case of State versus 9 Johnson?</p> <p>10 A. It is.</p> <p>11 Q. Okay. And what kind of case was State 12 versus Johnson?</p> <p>13 A. I don't even remember.</p> <p>14 Q. You can't tell us whether it was a murder 15 case or what kind of crime was involved?</p> <p>16 A. Given what I do, it was most likely a 17 murder, but I don't recall the specific case.</p> <p>18 Q. You testified on behalf of the state in 19 that case?</p> <p>20 A. I did.</p> <p>21 Q. Okay. And I guess what I -- so you're 22 telling me you can't tell me what was the nature of 23 the charges in that case?</p> <p>24 A. I simply don't remember.</p>	<p style="text-align: right;">16</p> <p>1 for any of the cases you've testified in?</p> <p>2 A. No.</p> <p>3 Q. And what I'm trying to -- why is that?</p> <p>4 A. I've never seen the need for that.</p> <p>5 Q. Okay. But there's no way anyone can -- 6 okay. Do you have any way to determine -- if you 7 did the autopsy, for example, in State versus 8 Johnson, do you have any way to determine what that 9 testimony was you provided in relation to the 10 autopsy you gave?</p> <p>11 A. Well, in terms of testimony, we don't 12 keep any files or records in this office with 13 respect to testimony. That would be the court.</p> <p>14 Q. Uh-huh.</p> <p>15 A. So I would say no.</p> <p>16 Q. So in terms of that Daubert hearing, do 17 you know whether your trial testimony was limited 18 in any way?</p> <p>19 A. As I recall, it wasn't. There was no 20 limitation at all.</p> <p>21 Q. But as you sit here today, do you 22 remember anything you testified to in that case?</p> <p>23 A. No. That I did testify is in my record 24 here. You see that same day there was a Daubert</p>
<p style="text-align: right;">15</p> <p>1 Q. Okay. Is there a record here at the 2 office of the medical examiner that notes when 3 you've done an autopsy and when you've provided 4 testimony in that case with respect to that 5 autopsy?</p> <p>6 A. Likely not. If this involved -- and 7 again, I'd tell you if I could remember. If this 8 involved an autopsy that we did at this office, 9 that would be on file. But we don't reference, of 10 course, our autopsies by the name of a defendant, 11 we reference them by the name of the decedent, by 12 our patient.</p> <p>13 Q. So do you have any records here that 14 would indicate, in terms of you've just listed the 15 title of the case without giving us the case name, 16 first of all, or the case number. Would the case 17 number be written down anywhere?</p> <p>18 A. When we get subpoenaed on cases by, say, 19 Milwaukee County, for example, they do have a case 20 number, a CF number for us on there. And if we've 21 retained a copy of the subpoena, that number would 22 be on there. And oftentimes in our case file we'll 23 have that.</p> <p>24 Q. But you have not cited the case number</p>	<p style="text-align: right;">17</p> <p>1 hearing in the morning, and then trial testimony 2 was in the afternoon.</p> <p>3 Q. Right.</p> <p>4 A. And to me, it was just normal testimony. 5 But what the issues were -- I mean, I testify 6 probably 25 or 30 times a year. I can't remember 7 one case.</p> <p>8 Q. In that case were you an expert called on 9 behalf of a witness or a party in that case, or 10 were you called on behalf of the -- as a medical 11 examiner as part of the state?</p> <p>12 A. Well, a medical examiner is an expert.</p> <p>13 Q. Sometimes.</p> <p>14 A. Are we arguing?</p> <p>15 Q. I'm trying to be a little clear. There 16 are times you're called to provide testimony where 17 you're not qualified as an expert; is that --</p> <p>18 A. Never.</p> <p>19 Q. Never?</p> <p>20 A. No. Only the time that I testified in 21 that personal theft case as a percipient witness. 22 But every time I've testified in my professional 23 capacity, it's been as an expert.</p> <p>24 Q. I see. Okay. Have you ever been deemed</p>

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<p>1 unqualified to give expert testimony in any case?</p> <p>2 A. No.</p> <p>3 Q. Have you ever testified in a case</p> <p>4 involving pediatric asphyxiation?</p> <p>5 A. In a case where asphyxia of one type or</p> <p>6 another has been the cause of death, sure.</p> <p>7 Q. Okay. Well, I'm asking -- okay, let's</p> <p>8 just get some terms straight. What does the term</p> <p>9 asphyxia mean to you?</p> <p>10 A. Asphyxia technically means lack of oxygen</p> <p>11 by one mechanism or another. It can be anything</p> <p>12 from mechanical to chemical to other.</p> <p>13 Q. Okay. And in terms of pediatric -- or</p> <p>14 strike that. In terms of asphyxia, that can</p> <p>15 include cases that involve hanging; right?</p> <p>16 A. That would be a type of asphyxia.</p> <p>17 Q. That could include cases involving</p> <p>18 strangulation; correct?</p> <p>19 A. That would be another type, either manual</p> <p>20 or ligature.</p> <p>21 Q. And asphyxia could also include other</p> <p>22 types of suffocation; right?</p> <p>23 A. Suffocation would be another type of</p> <p>24 asphyxia, yes.</p>	<p>1 been criminal.</p> <p>2 Q. And in those cases, do you know whether</p> <p>3 you testified on behalf of the State or the</p> <p>4 defense?</p> <p>5 A. Well, the way that I normally put it, I</p> <p>6 testified on behalf of my patient. I'm generally</p> <p>7 called by the State, though.</p> <p>8 Q. Is there any research or investigation</p> <p>9 you could do to determine the cases where you've</p> <p>10 testified in a case involving a child who was</p> <p>11 strangled?</p> <p>12 A. The reason that -- well, there are a</p> <p>13 couple reasons why I would say no. The first one</p> <p>14 is that the only record I maintain of testifying is</p> <p>15 what you see right here. Person went to Federal</p> <p>16 Rule 26. The other reason is, is that in terms of</p> <p>17 autopsies that I've done, I do not maintain the</p> <p>18 case files; I'm not a custodian of record. And</p> <p>19 obviously, not every case that I do leads to trial.</p> <p>20 So it would be an arduous process</p> <p>21 to try to put that together, particularly now that</p> <p>22 I've done something close to 9300 autopsies in my</p> <p>23 career, at different places in the country. I'm</p> <p>24 not even sure if it would be possible in every</p>
<p>19</p> <p>1 Q. All right. So let me ask this. Have you</p> <p>2 ever testified in a case involving a child who was</p> <p>3 hung?</p> <p>4 A. That would be a child who was hanged.</p> <p>5 No. Typically, that would be suicide as to manner</p> <p>6 of death, and there wouldn't be testimony required.</p> <p>7 Q. Have you ever testified in a case where a</p> <p>8 child was strangled?</p> <p>9 A. I have.</p> <p>10 Q. How many times?</p> <p>11 A. Couldn't tell you.</p> <p>12 Q. When's the last time you testified in a</p> <p>13 case involving a child that was strangled?</p> <p>14 A. Couldn't tell you that either, just that</p> <p>15 I have done it, I'm certain.</p> <p>16 Q. How many times have you done it?</p> <p>17 A. I don't know.</p> <p>18 Q. When's the last time you testified in a</p> <p>19 case involving a child strangled?</p> <p>20 A. I don't know.</p> <p>21 Q. Was the case a criminal case or a civil</p> <p>22 case?</p> <p>23 A. I don't believe I've ever testified in a</p> <p>24 strangulation case that's been civil. They've all</p>	<p>21</p> <p>1 case.</p> <p>2 Q. Okay. In terms of the autopsies you have</p> <p>3 done here at this office, is there a copy of those</p> <p>4 autopsies maintained in the office?</p> <p>5 A. The office does have those files, yes.</p> <p>6 Q. And is there a way that the office could</p> <p>7 do an investigation to determine which cases</p> <p>8 involved the hanging or strangulation of a child?</p> <p>9 A. I think so. We maintain things on a</p> <p>10 software database, and it might be possible to do a</p> <p>11 custom search through that. Again, that's not</p> <p>12 something I would do. Perhaps staff could do that.</p> <p>13 Q. Well, okay. So you've done -- strike</p> <p>14 that. So you just told us that you've testified</p> <p>15 hundreds of times; correct?</p> <p>16 A. I have.</p> <p>17 Q. And you've given depositions somewhere</p> <p>18 between 75 and 100 times; right?</p> <p>19 A. I have.</p> <p>20 Q. Of the times that you've provided</p> <p>21 testimony, either -- and it's fair to say you've</p> <p>22 never done a deposition involving a child</p> <p>23 strangulation; is that --</p> <p>24 A. I think that's true. I don't think I</p>

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22	24
1 have.	1 Q. Were there any other law enforcement
2 Q. So of the times you've testified in a	2 officials involved in that case beyond you?
3 case, what percentage of those had to do with a	3 A. My group was working for the Contra Costa
4 child strangulation?	4 coroner's office. That's run in that county of
5 A. I couldn't give you a percent or a	5 California by a sheriff coroner. So in a sense,
6 number. I simply don't know.	6 they are law enforcement. I mean, not law
7 Q. Have you ever been disciplined as part of	7 enforcement like in a criminal case, but law
8 your job?	8 enforcement runs that office.
9 A. No.	9 Q. Okay. And you as -- you were the chief
10 Q. Have you ever been disciplined as part of	10 medical examiner of Milwaukee County; right?
11 any contractual agreement you've had?	11 A. No, no. This was --
12 A. No.	12 Q. I'm asking you now, though. I've
13 Q. Have you ever been named as a defendant	13 switched.
14 in a case?	14 A. Right now, I'm -- not "were," am. I am
15 A. Yes.	15 the chief medical examiner.
16 Q. How many times?	16 Q. Okay, sorry. You are the chief medical
17 A. Seven.	17 examiner. And this isn't, you would consider, an
18 Q. What did those cases involve? I mean,	18 office that works -- is a law enforcement office?
19 we're going to have to go through them, all seven.	19 A. No. We're actually a cabinet level
20 So I'm going to ask --	20 office for the county. We're independent of law
21 A. Sure. The -- if I can remember, my very	21 enforcement.
22 first lawsuit was a wrongful death suit in which I	22 Q. Okay. What does it mean to be a cabinet
23 had done the autopsy. After that, I know there was	23 level?
24 one where the coroner's office and I were sued for	24 A. In other words, our county executive has
23	25
1 failure to notify the next of kin that an autopsy	1 regular cabinet meetings that I have to attend.
2 was going to be done, although that wasn't my duty.	2 Q. You provided a CV with your opinion;
3 Another lawsuit involved clinical	3 correct?
4 laboratory testing in a woman that proved to have	4 A. I did.
5 antimouse antibodies in her system, and was	5 Q. And is that up-to-date?
6 offended that the results of the lab tests were	6 A. It is.
7 different in a setting of mouse antibodies being	7 Q. Okay. And you're a forensic pathologist;
8 used in the lab test. Let's see, another one	8 right?
9 involved allegations that I was in a conspiratorial	9 A. I am.
10 relationship with Kaiser Hospital in California	10 Q. Tell us what a forensic pathologist does.
11 based on an autopsy that I had done.	11 A. A forensic pathologist, in general, does
12 I don't remember. I think there	12 autopsies to determine cause and manner of death.
13 were a couple others. As I said, though, these	13 We can also provide consultation services,
14 were all in California, and they all ended up being	14 courtroom testimony, etcetera. But the main thing
15 dismissed with prejudice.	15 the public thinks of, of course, is autopsies.
16 Q. None of them settled?	16 Q. Have you received any training in how to
17 A. No.	17 testify in court?
18 Q. Okay. The one that had to do with	18 A. I wish. I'd like to -- I've offered that
19 wrongful death in which you engaged -- in which you	19 kind of training. Most programs don't have that.
20 conducted the autopsy in that case, who were the	20 We want to develop something here, but -- and I've
21 other defendants named?	21 done that kind of teaching. But having received
22 A. If I recall, the coroner's office, and I	22 training, not so much. And particularly because
23 think the surgeon that performed the tonsillectomy	23 the first part of my career was in the military,
24 was also named.	24 and it didn't happen that often.

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<p style="text-align: right;">26</p> <p>1 Q. But -- so you've provided training to 2 other people as to how to testify in court?</p> <p>3 A. I have.</p> <p>4 Q. And it's fair to say you feel really 5 familiar in courtroom settings?</p> <p>6 A. Pretty familiar.</p> <p>7 Q. And what kind of training do you provide 8 for people about how to testify in a court?</p> <p>9 A. A lot of it is really, you could call it 10 on-the-job. So we have a forensic fellowship 11 program in the office here. So we train a new 12 forensic pathologist every year. So we take our 13 fellow with us when we testify so he or she can 14 watch us do that, talk about it afterwards. We try 15 to give them the opportunity to testify, say in 16 preliminary hearings, and then do kind of an 17 after-action report. And at various conferences 18 I've talked about it too.</p> <p>19 Q. And are there tips and tools of the trade 20 that you give to people about how they should 21 conduct themselves in a courtroom, how they should 22 interact with counsel or the judge or the jury?</p> <p>23 A. Well, I guess -- I guess the way you put 24 it, tips and tricks of the trade, I mean, if you</p>	<p style="text-align: right;">28</p> <p>1 Q. Now, in this case you're providing expert 2 testimony in this civil rights case; right?</p> <p>3 A. Correct.</p> <p>4 Q. Is that under the auspices of the Office 5 of Medical Examiner of Milwaukee County?</p> <p>6 A. It is.</p> <p>7 Q. And you've been compensated for this, for 8 your opinion in this case; correct?</p> <p>9 A. No.</p> <p>10 Q. You haven't received any money?</p> <p>11 A. No. I'd like to say the money goes to 12 our office, but it doesn't even do that. It just 13 goes to Milwaukee County.</p> <p>14 Q. Okay. But on behalf of the Milwaukee 15 County, then, you've received financial 16 compensation for the opinion you've provided in 17 this case?</p> <p>18 A. No. I personally have received nothing. 19 The County has, I haven't.</p> <p>20 Q. I see. But what I'm trying to get at is 21 the defendants have paid for your expert opinion in 22 this case?</p> <p>23 A. I'm not sure who's paid. I think we've 24 invoiced Mr. Kamionski's office, and they've paid</p>
<p style="text-align: right;">27</p> <p>1 want to call answer questions fully and honestly a 2 trick of the trade, I guess that would be one of 3 them, but --</p> <p>4 Q. I didn't use the word "trick," did I?</p> <p>5 A. I think you said "tips and tricks of the 6 trade."</p> <p>7 Q. No, I didn't. I said were there any tips 8 that you provide as to how you testify?</p> <p>9 A. That's bizarre. Okay. Well, I guess a 10 tip would be answer fully and honestly, make good 11 eye contact, you know, know where you're walking 12 into in the courtroom so you don't head to the 13 wrong seat, that kind of thing.</p> <p>14 Q. When you say "make good eye contact," eye 15 contact with the jury?</p> <p>16 A. Depends. My usual thing is if it's a 17 short question, I'll be looking right at the 18 attorney. If they want a longer answer, then I'll 19 look at the jury to make sure they're getting it.</p> <p>20 Q. Okay. And so your work as a forensic 21 pathologist is part of this office of the Milwaukee 22 County -- Office of the Medical Examiner of the 23 Milwaukee County; right?</p> <p>24 A. It is.</p>	<p style="text-align: right;">29</p> <p>1 the County.</p> <p>2 Q. Okay.</p> <p>3 A. But I'm trying to distinguish between 4 me --</p> <p>5 Q. I hear you.</p> <p>6 A. -- and my office, so --</p> <p>7 Q. No, I understand. So let me just ask 8 this then. In terms of the other times you've 9 served as a consultant or expert in a case that did 10 not have to do with the Office of the Medical 11 Examiner of Milwaukee County, do you receive any of 12 that financial compensation?</p> <p>13 A. It depends. So we will do cases here 14 that perhaps involve the public defender elsewhere 15 in the state, not in our own service area, but 16 elsewhere in the state, and those work through the 17 office. So just as in this case, the office gets 18 paid -- well, the County gets paid; we don't get 19 paid. I do my own private consultation work that 20 has nothing to do with the county, generally, or 21 the state, say a firm back in California where I've 22 worked. So I personally am compensated for those 23 kind of cases.</p> <p>24 Q. What percentage of those cases or what</p>

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<p style="text-align: right;">30</p> <p>1 percentage of your income comes from those kinds of 2 cases?</p> <p>3 A. It varies a lot from year to year. I'd 4 say anywhere between zero and a third, depending on 5 the year.</p> <p>6 Q. In terms of the consultation you do 7 privately, what kind of cases do those consist of?</p> <p>8 A. Some civil, some criminal. I think at 9 this point I wouldn't say it's even half and half. 10 It's probably more criminal.</p> <p>11 Q. And are you -- okay. Are you -- and who 12 are you testifying on behalf of in those cases?</p> <p>13 A. A lot of times they don't even lead to 14 testimony. They'll simply be case review, that 15 sort of thing. But it's been an entire mix. It's 16 been anywhere from civil defense in cancer-related 17 cases, to criminal defense or criminal prosecution, 18 both sides, in the criminal cases.</p> <p>19 Q. And are those cases also listed on your 20 CV?</p> <p>21 A. They are.</p> <p>22 Q. And so in those cases you're -- out in 23 California, for example, you're also testifying on 24 behalf of the State at times?</p>	<p style="text-align: right;">32</p> <p>1 Q. Or that you -- let me ask -- I mean, 2 people seek you out for your expert opinion; 3 correct? And often experts are sought if they know 4 a particular area very well; right?</p> <p>5 A. That's true. But the thing is, the 6 specific area really is forensic pathology, because 7 there are only maybe 400 of us, 500 of us in the 8 country, working actively in the field. So what 9 I've seen as I've gone along in my career is it's 10 more a matter of being a forensic pathologist and 11 being experienced. You know, there just aren't 12 that many of us. So that's kind of led to more 13 consultation work as I've gotten older in the 14 field. I certainly didn't do this amount of 15 consultation work when I was starting out.</p> <p>16 Q. Well, you said you've testified a lot in 17 civil defense cases involving cancer.</p> <p>18 A. I have.</p> <p>19 Q. Okay.</p> <p>20 A. Twice.</p> <p>21 Q. And you've testified with respect to 22 gunshot injuries?</p> <p>23 A. Oh, sure.</p> <p>24 Q. Well, in this case, you're doing --</p>
<p style="text-align: right;">31</p> <p>1 A. Occasionally. Sometimes on behalf of the 2 State, sometimes on behalf of individual 3 defendants, say, in a criminal case or a civil 4 case. Again, it just depends on the case. It's 5 been a mix.</p> <p>6 Q. Do you have a particular specialty within 7 the forensic pathologist field?</p> <p>8 A. Forensic pathology, I mean, it's a 9 subspecialty. So in general, in forensic 10 pathology, I have certain interests. You know, 11 gunshot injuries are a specific interest of mine, 12 for example. But that doesn't necessarily lead to 13 specific testimony. In general what I'm asked to 14 look at is simply forensic pathology cases.</p> <p>15 Q. I understand. For example, you say that 16 you have a particular specialty in gunshot 17 injuries.</p> <p>18 A. Well, I wouldn't call it a specialty in 19 the sense that there's no special training or 20 certification offered in that, in my world. It's 21 just cases that I'm interested in.</p> <p>22 Q. What other cases are you interested in 23 then?</p> <p>24 A. Well, pretty much --</p>	<p style="text-align: right;">33</p> <p>1 you're providing this opinion under the auspices of 2 the office of the medical examiner of Milwaukee 3 County versus your own private practice; is that 4 right?</p> <p>5 A. That's correct.</p> <p>6 Q. Why is that?</p> <p>7 A. The case came to me at the office. 8 That's sort of part A. Part B is that, frankly, 9 our county executive is a businessman and 10 appreciates his departments being entrepreneurial. 11 Part C is that any income that we as staff 12 pathologists can bring into the office helps offset 13 the tax levy that otherwise supports us. And I'm 14 happy to say that between consultation work and 15 outside autopsies and so forth, we almost make half 16 of our budget by doing that kind of work. So it's 17 a benefit to the county taxpayer and lets us see 18 cases that we wouldn't ordinarily see.</p> <p>19 Q. So was it your decision to have this be 20 under the Office of the Medical Examiner of 21 Milwaukee County versus under your own private 22 consultation?</p> <p>23 A. It was my decision. But that would be 24 the general practice for this kind of case,</p>

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1	particularly working with Mr. Kamionski's firm.	1	A. In terms of an expert report like this,
2	Q. And why would it be the general practice	2	correct.
3	in this kind of case?	3	Q. Have you ever done an expert report like
4	A. That's just how we do it. I mean, it's a	4	this in a case involving a child who hung?
5	why question that's hard to answer.	5	A. No.
6	Q. Is it because this involves a city	6	Q. Have you ever done an expert report in a
7	municipality?	7	case where a child was strangled?
8	A. No.	8	A. No.
9	Q. Is it because it involves law	9	Q. Have you ever done an expert report in
10	enforcement?	10	any case involving any type of asphyxiation of a
11	A. No. It's more like Mr. Kamionski	11	child?
12	contacted me at the office here.	12	A. I don't believe I've done an expert
13	Q. Okay. So because he contacted you at	13	report in asphyxial death involving children or
14	your office, that's why this is then under the	14	adults.
15	auspices of the Office of the Medical Examiner of	15	Q. So that in terms of asphyxial deaths too,
16	Milwaukee County?	16	for adults, that would include hanging,
17	A. Right.	17	strangulation, or any sort of suffocation; right?
18	Q. Do you have a private website that you	18	A. Well, there are also other ways to get
19	have out there for your private consultation?	19	into asphyxia. But yeah, in general, that would
20	A. No.	20	simply be the autopsy report, not a separate expert
21	Q. How would someone contact you outside of	21	report.
22	your office to solicit your expert consultation?	22	Q. Okay. Now, in terms of the testimony
23	A. Personal e-mail or telephone.	23	you've provided in various cases, right, would you
24	Q. And is that published anywhere?	24	say the vast majority of that testimony was
	35		37
1	A. I don't know if cell phone numbers are.	1	provided in criminal cases?
2	Is there a directory for cell -- I don't know. I	2	A. Yes.
3	certainly -- I don't have a website, I don't	3	Q. And would you say that the vast majority
4	advertise, nothing like that. Mostly, those kind	4	of that testimony was provided when you were called
5	of cases are people that I've worked with in the	5	as a witness by the State?
6	past. And it could be a word of mouth thing, you	6	A. Yes.
7	know, maybe they tell -- they tell an associate or	7	Q. And so let's -- in terms of the -- the
8	something.	8	percentages, is it fair to say that 90 percent of
9	Q. Have you ever written an expert report	9	the times you've provided testimony they've been in
10	regarding a case involving a child who suffocated?	10	criminal cases?
11	A. Looking at the technical definition of	11	A. I would say either 90 percent, or maybe
12	suffocation, I would say no.	12	even a little bit higher.
13	Q. Okay. How about -- and so let me be	13	Q. Sure, like 90 to 95 percent?
14	really clear, too, about this. I understand that	14	A. Sure.
15	you do autopsies, and in autopsies, you write an	15	Q. In those 90 to 95 percent of those cases,
16	autopsy report; right?	16	you testify the, what, 90 to 95 percent of the time
17	A. Right.	17	when called as a witness by the State?
18	Q. But that's different than, let's say, for	18	A. Generally by the State. I mean, there
19	example, the report you provided in this case;	19	certainly have been times, and not so much here in
20	correct?	20	Wisconsin, but more in California, where I would
21	A. Correct.	21	end up getting subpoenas from the State and the
22	Q. And so what I'm asking is, have you ever	22	defense. And of course here in Wisconsin, the
23	done a -- so you have never done a report in a	23	defense is also the State. The public defender's
24	child suffocation case, an expert report like this?	24	office is a state institution.

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<p>1 Q. Right.</p> <p>2 A. And occasionally I'll get subpoenas from 3 them separately for a case. So it's variable. But 4 I'd say mostly -- I mean, the bulk has been called 5 by the State on the prosecution side.</p> <p>6 Q. And again, it would be the vast bulk of 7 your testimony in criminal cases is when you were 8 called by the prosecutor?</p> <p>9 A. I think so.</p> <p>10 Q. And in terms of the civil cases you've 11 provided testimony in, is it fair to say that you 12 have provided that testimony the majority of time 13 on behalf of the defense in that case?</p> <p>14 A. I think that's been more -- more maybe 15 half and half. That hasn't been a lot of 16 testimony. It's been more case analysis than 17 testimony. And for sure, looking at just the 18 analysis, I'd say that's probably more like half 19 and half. But I suspect the times that I've 20 testified, that has been more for defense. Because 21 in a criminal case, of course, the prosecution 22 would have whoever actually did the autopsy.</p> <p>23 Q. But just in terms -- so your civil case, 24 the times you've provided testimony, has been, you</p>	<p>38</p> <p>1 findings, then it's pretty typical to say that 2 those findings are either consistent with or not 3 consistent with somebody's history, somebody's 4 story, okay? So I guess in a way you might say 5 that speaks to credibility. But it's more based on 6 the physical findings of the office, which is my 7 expertise.</p> <p>8 Q. Right. So beyond the physical findings, 9 you haven't had any -- I hear exactly what you're 10 saying. You're saying the physical findings could 11 contradict someone's version of events?</p> <p>12 A. There you go.</p> <p>13 Q. And then sometimes the physical findings 14 could be consistent with someone's physical version 15 of the events?</p> <p>16 A. Right.</p> <p>17 Q. But beyond that, what your own education 18 and experience provides in terms of the 19 pathological and physical findings, you've received 20 no training on how to determine someone's 21 credibility?</p> <p>22 A. I'm not sure what you're asking, in the 23 sense that if it doesn't involve, say, the autopsy 24 findings and so forth, I'm not sure what would be</p>
<p>1 know, we're talking like five percent of all the 2 case you've testified in?</p> <p>3 A. Right.</p> <p>4 Q. And of that five percent, it more often 5 is you testifying on behalf of the defense than you 6 are on the plaintiff?</p> <p>7 A. I think so.</p> <p>8 Q. Now, as a medical examiner, have you 9 received any training on how to determine a 10 person's credibility?</p> <p>11 A. You know, we talk about credibility in 12 terms of courtroom testimony and how to present one 13 self in a credible way. But in terms of 14 determining someone's credibility, I would say 15 that's outside of my job description, again, since 16 mostly I'm involved with autopsy, and you wouldn't 17 -- really wouldn't say the deceased are credible or 18 not credible, they're just the deceased.</p> <p>19 Q. So you're not aware of any medical 20 examiner trainings or program about how medical 21 examiners can determine a person's credibility?</p> <p>22 A. Well, let me -- let me be specific with 23 respect to what I do. If I have done an autopsy, 24 reviewed an autopsy, and I have certain autopsy</p>	<p>39</p> <p>1 beyond that, so to speak. In other words, I have 2 not been trained, say, in interview techniques, you 3 know, in the police sense.</p> <p>4 Q. Okay.</p> <p>5 A. Like talking to a witness and trying to 6 determine -- assess their demeanor, whatever. I've 7 read about those things, but that's not part of 8 what I do. That's not my training.</p> <p>9 Q. And you wouldn't say you're an expert in 10 that?</p> <p>11 A. No.</p> <p>12 Q. Have you ever received any training as a 13 medical examiner about coerced or false 14 confessions?</p> <p>15 A. That's part of our literature in the 16 sense that not so much cause of death, because 17 that's autopsy, but manner of death: natural, 18 accident, suicide, homicide, other. Those -- those 19 specifically relate to history and investigation. 20 And certainly we're aware, as forensic 21 pathologists, that the confession, a confession, 22 could be part of that, and it may or may not be 23 reliable. I wouldn't call that specific training, 24 I would just say that's being aware of the</p>

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<p>1 literature.</p> <p>2 Q. So you're aware that there are false 3 confessions?</p> <p>4 A. Oh, sure.</p> <p>5 Q. Right. But have you received any 6 training on how to identify whether a confession is 7 false?</p> <p>8 A. No.</p> <p>9 Q. Now, you're saying that's now a 10 possibility; right? That's a reality that you 11 understand, that confessions can be false; right?</p> <p>12 A. Yes.</p> <p>13 Q. Would you say -- you know, you've been 14 practicing for what, 40 years now?</p> <p>15 A. Almost.</p> <p>16 Q. Okay. When did you first -- was there a 17 change -- well, you know, strike that. Forget it. 18 Have you ever received any training regarding 19 accidental pediatric deaths?</p> <p>20 A. Well, I would say that's part of -- 21 that's part of general forensic pathology. Every 22 manner of death is part of our training. So you 23 talk about accidental death as a category, whether 24 the victim is months old, years old or decades old,</p>	<p>42</p> <p>1 pathologists, it's really a case by case thing, 2 too. You know, one lament about our literature is 3 that it tends to be anecdotal, but it kind of has 4 to be, doesn't it? I mean, it's one death at a 5 time.</p> <p>6 Q. I'm going to ask you, can you give me the 7 last time you received any training regarding 8 accidental pediatric deaths?</p> <p>9 A. I mean, the last paper I heard presented 10 on a type of pediatric accidental death would have 11 been in Charlotte last October.</p> <p>12 Q. Who presented that paper?</p> <p>13 A. I'd have to go back and look at the 14 program. I don't remember the specific presenter.</p> <p>15 Q. And what kind of accidental pediatric 16 death were they talking about?</p> <p>17 A. We spend a lot of -- this was talking 18 about sleep setting. You know, we spent a lot of 19 time looking at that. So unsafe sleep, asphyxia, 20 you know, bed sharing, co-sleeping, that kind of 21 thing.</p> <p>22 Q. So this was what kind of conference in 23 Charlotte?</p> <p>24 A. This is the National Association of</p>
<p>1 sure, that's part of our training, expertise, and 2 experience.</p> <p>3 Q. So I'm going to ask, what specific 4 training have you gotten regarding accidental 5 pediatric deaths?</p> <p>6 A. Well, when you start asking about 7 specific training, recall I've been doing this for 8 almost 40 years, so a lot of that is in the past, 9 and it gets hard to remember specific things. But 10 that was part -- that kind of thing was part of my 11 pathology residency, anatomic and clinical, because 12 we had a staff forensic pathologist at the Naval 13 Hospital in San Diego. It was certainly a part of 14 my fellowship training, the one year I spent at the 15 Armed Forces Institute of Pathology.</p> <p>16 Accidental deaths as a group, 17 involving whichever age group, are often discussed 18 at forensic meetings, etcetera. And I attend a lot 19 of meetings. And I present at meetings and, you 20 know, teach at meetings and so forth, so -- and 21 even here in our office, morning rounds, you know, 22 we're talking about those kinds of deaths. So it's 23 an ongoing thing.</p> <p>24 But again, for forensic</p>	<p>43</p> <p>1 Medical Examiners' annual conference. We touched 2 on it again; we just had the interim meeting in Las 3 Vegas was three weeks ago or so, and the program 4 there was on unexpected death. And again, part of 5 that time was spent talking about pediatric death 6 definition classification.</p> <p>7 Q. Okay. Let me just -- so the National 8 Association of Medical Examiners was in Charlotte 9 last year?</p> <p>10 A. Right.</p> <p>11 Q. And then you're saying there was one in 12 Las Vegas?</p> <p>13 A. The American Academy of Forensic Sciences 14 has an annual meeting. So one day during that 15 meeting is the National Association of Medical 16 Examiners' interim meeting. So I was there for 17 some additional things, board meetings, so forth. 18 But the scientific session was part of that day.</p> <p>19 Q. And who taught that scientific session?</p> <p>20 A. It was a panel of people.</p> <p>21 Q. And -- okay. And was that discussing 22 sudden infant death syndrome?</p> <p>23 A. That was part of it. Sudden infant 24 death, sudden death in epilepsy, sudden death,</p>

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<p style="text-align: right;">46</p> <p>1 sudden cardiac death. Various types of sudden 2 unexpected death.</p> <p>3 Q. Was that cardiac in children or adults as 4 well?</p> <p>5 A. Yes, both.</p> <p>6 Q. So the training was both for children and 7 adults?</p> <p>8 A. Right.</p> <p>9 Q. It wasn't confined to just children?</p> <p>10 A. No.</p> <p>11 Q. Or young ones?</p> <p>12 A. No, it was the full age spectrum.</p> <p>13 Q. How long was the training in Las Vegas?</p> <p>14 A. That workshop was four-and-a-half or five 15 hours. And the national meeting is about 16 four-and-a-half days or so.</p> <p>17 Q. Okay. Well, did you go to any specific 18 trainings that just dealt with pediatric deaths?</p> <p>19 A. We generally don't have those. I know 20 when I -- we hosted the national association here 21 in 2013, so we had a couple of our workshops on 22 sudden infant death and so forth. But in general 23 you wouldn't look at a whole meeting devoted to it. 24 There's not enough interesting for forensic</p>	<p style="text-align: left;">48</p> <p>1 not -- that you had no evidence there was a crime; 2 is that right?</p> <p>3 A. Well, remember, we're stuck using the 4 same term as you attorneys are, but we mean 5 different things by it. So homicide simply means 6 death at the hands of another. That's my 7 determination to make as a medical examiner. 8 Whether there's a crime or not a crime is outside 9 of my purview.</p> <p>10 Q. Okay. So let's go through all the 11 definitions then of what you could label someone's 12 death; right? So there's homicide, which is death 13 at the hands of another. Is there any other thing 14 you would add to that definition?</p> <p>15 A. Depends on the case and what I'm asked. 16 But technically that would be the shortest, easiest 17 definition. Death at the hands of another due to 18 either action or inaction.</p> <p>19 Q. Okay, there's homicide. Then there's 20 accident?</p> <p>21 A. There is. An accident would be death as 22 the result of interaction with a hostile 23 environment.</p> <p>24 Q. Death due to interaction with a hostile</p>
<p style="text-align: right;">47</p> <p>1 pathologists there. And given the way the cases 2 occur -- well, I can give you an example.</p> <p>3 So if -- for Milwaukee County, we 4 do about a thousand autopsies a year, maybe 30 5 infant deaths a year. So there's simply not enough 6 case volumes to make a whole meeting. It just 7 wouldn't happen.</p> <p>8 Q. So I'm going to direct your attention to 9 another issue, another category of cases -- or 10 strike that. I'm going to direct your attention to 11 another case you've worked on. And that's the case 12 of Derek Williams.</p> <p>13 A. Uh-huh.</p> <p>14 Q. You're familiar with that case; correct?</p> <p>15 A. I am.</p> <p>16 Q. And you provided testimony in that case?</p> <p>17 A. I did.</p> <p>18 Q. Okay. And that case involved his death 19 in police custody; correct?</p> <p>20 A. It did.</p> <p>21 Q. And in that case, you labeled his death 22 as a homicide; right?</p> <p>23 A. I did.</p> <p>24 Q. But you also said in that case that was</p>	<p style="text-align: right;">49</p> <p>1 environment?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Can you give me an example of what 4 would be an accidental death that you would -- what 5 death you would categorize as accidental?</p> <p>6 A. As long as we're on the asphyxia topic, 7 how about drowning? Another large class that we 8 deal with these days would be drug overdose. That 9 environment obviously is internal as opposed to 10 external, but still it fits the same definition.</p> <p>11 Q. A car accident?</p> <p>12 A. In general, yes. And the funny thing 13 about that is that there are some exceptions. So 14 if an automobile, say, strikes a pedestrian, we 15 will generally term that accident unless there was 16 evidence that it was intentional, and then we might 17 say that's a homicide. That might be a 18 controversial call, but in general, that would be 19 an accident.</p> <p>20 Q. Has there been a case where you've had a 21 car hit a pedestrian that you've labeled as a 22 homicide?</p> <p>23 A. I'm sure I have. Homicide -- I've 24 labeled them as suicides, occasionally. You could</p>

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1	have a pedestrian leap out in front of a car, for 2 example. And it's witnessed, you know, and you've 3 got that pretty well established, that could be a 4 suicide.	1	Q. So define that for me, please. I mean, what does that mean to be sickle cell crisis due to sickle cell trait?
5	Q. So a suicide would be --	4	A. Oh, I gotcha. Okay. So sickle crisis, 5 in my world, is essentially a microscopic finding. 6 So aggregates of sickle cells, called sickle 7 thrombi in vessels throughout the body, liver, 8 brain, lung, etcetera. So that's the sickle crisis 9 part. Sickle trait, it involves a kind of 10 hemoglobin a person has. And if they have two 11 specific hemoglobin chains, that would be sickle 12 cell anemia. If they only have one and one normal, 13 that would be sickle trait. And Mr. Williams had 14 sickle trait.
6	A. That's death at one's own hands.	15	Q. Right. So -- and there are folks who have the trait of sickle cell but they don't have -- they don't suffer from symptoms of sickle cell?
7	Q. Okay. And then there's two more	19	A. Yes, that's correct.
8	categories; correct?	20	Q. Okay. And before you made your cause --
9	A. Well, the big one is natural.	21	and so the cause of death analysis, let me just get
10	Q. Okay.	22	this one more time, was sickle crisis due to the
11	A. And that's just death as the result of a	23	sickle cell anemia trait?
12	natural disease process.	24	A. Right. I wouldn't put the word "anemia"
13	Q. And then there's -- finally, there's		
14	undetermined?		
15	A. We also use pending, so -- and pending		
16	would be a placeholder, so to speak. And that		
17	would be the typical drug overdose, where the		
18	testing has to be done. Undetermined, I've defined		
19	that for my staff as a case where you're right in		
20	between two other manners of death, and it's simply		
21	not possible to discern, or perhaps there's simply		
22	not enough material. The skeletonized remains, for		
23	example.		
24	Q. But specifically with Derek Williams'		
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1	case, did you testify that you could not determine	1	in there, I would just call it sickle trait.
2	whether that was a crime or not, his death?	2	Q. Okay. Sickle crisis due to sickle trait.
3	A. You know, I don't recall the specifics of	3	A. Right.
4	my testimony, but in general, I try to stay away	4	Q. Before you did that cause of death
5	from issues of crime or not crime, because that's	5	analysis, did you speak with any of his family
6	not mine to determine.	6	members to determine if he had any symptoms of
7	Q. Okay.	7	sickle cell?
8	A. Cause of death and manner of death, I'm	8	A. I didn't have the opportunity to, in the
9	on pretty firm ground there. But in terms of a	9	sense that it actually wasn't my autopsy. One of
10	crime, that's not what I do.	10	my colleagues did the autopsy. And I heard about
11	Q. In that case, you said his death was	11	it later. And it was at that point that I looked
12	caused in part by the sickle cell anemia crisis;	12	into the case and changed the manner of death. But
13	correct?	13	changing the manner of death didn't require a
14	A. He had sickle trait. But sickle crisis,	14	conversation with a next of kin. Whether or not he
15	yes, that was his cause of death.	15	had symptoms wouldn't have made any difference.
16	Q. Okay. And in that case, though, there	16	Q. Okay. Why wouldn't it have made a
17	was -- you found that he had the trait for sickle	17	difference?
18	cell anemia?	18	A. Well, I mean, the anatomic cause of death
19	A. Right.	19	was what it was. And the story, if you will, of
20	Q. And had you -- before you made your	20	his last 10 or 15 minutes of life was what it was.
21	determination that his cause of death was due to	21	So whether he had a history or no history of
22	sickle cell anemia; right?	22	symptoms earlier in life wouldn't have impinged at
23	A. No. His cause of death was sickle crisis	23	all on how his life ended.
24	due to sickle trait.	24	Q. Okay. Well, there was -- in that case

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<p style="text-align: right;">54</p> <p>1 there was another expert opinion provided with 2 respect to his cause of death; right?</p> <p>3 A. There were other -- there was other 4 testimony, but I think the other opinion was they 5 didn't know what the cause of death was. If you 6 want to call that an opinion.</p> <p>7 Q. Okay. That's not an opinion?</p> <p>8 A. Well, it's not particularly helpful, but 9 it is an opinion, I guess. I mean, it's not a 10 cause of death, though. I mean --</p> <p>11 Q. Right. But they in fact disputed that 12 they did not believe there was evidence to say that 13 he died from sickle cell crisis due to sickle 14 trait.</p> <p>15 A. Correct.</p> <p>16 Q. And in fact, they did investigation to 17 determine that he had never suffered from any 18 symptoms of sickle cell; correct?</p> <p>19 A. I don't know what their investigation 20 involved, but I wouldn't have expected him to have 21 symptoms because he didn't have sickle cell anemia, 22 he had sickle cell trait.</p> <p>23 Q. Okay. So it's fair to say that before 24 you determined that cause of death, you also didn't</p>	<p style="text-align: right;">56</p> <p>1 A. So whatever he derived from that police 2 report led him to conclude that the manner was 3 natural.</p> <p>4 Q. Okay. And then you -- you -- Dr. Poulos 5 and you changed the manner of death in that case?</p> <p>6 A. Well, basically I did. I mean, being the 7 chief, that was my option.</p> <p>8 Q. Okay. And why did you change the manner 9 of death in that case?</p> <p>10 A. It was more of a technicality. In my 11 view, had -- it's the but/for principle. But for 12 police action, then I think Mr. Williams wouldn't 13 have passed away that day. Clearly there were 14 other factors at play there too. I mean, 15 committing armed robbery wearing a neoprene face 16 mask and then running wasn't helpful in terms of 17 physiologic stress.</p> <p>18 But needless to say, there was a 19 police chase, and I think at some point there was 20 some hands-on with the police before he was put 21 into the squad car. So in my view, that was a 22 physiologic stressor. And because that was part of 23 it, that led to the manner of being homicide, 24 technically.</p>
<p style="text-align: right;">55</p> <p>1 look at any medical reports regarding Mr. Williams?</p> <p>2 A. I don't think we had medical reports. 3 The -- again, the cause of death had been 4 determined before I came to the case. I changed 5 the manner of death.</p> <p>6 Q. Well, did Mr. Paulson check with you 7 before he made the cause of death finding?</p> <p>8 A. Dr. Poulos didn't.</p> <p>9 Q. Dr. Poulos.</p> <p>10 A. No.</p> <p>11 Q. And did he check with you before he made 12 the first manner of death?</p> <p>13 A. No.</p> <p>14 Q. And so the first manner of death was that 15 this was an accident; right?</p> <p>16 A. I thought he called it natural.</p> <p>17 Q. Okay. So he called it natural, and 18 then -- and that was based on reports he had 19 received from police officers that said that they 20 had no physical contact with him before his death?</p> <p>21 A. That was part of what he -- I mean, there 22 was a police report to review, and he had reviewed 23 that.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">57</p> <p>1 Q. Because at that point you said one of the 2 contributing factors was that there was hands put 3 on him?</p> <p>4 A. And a struggle, right.</p> <p>5 Q. Okay. And the changing of the manner of 6 death in that case, that caused some controversy?</p> <p>7 A. Oddly, it did. I thought I was the good 8 guy, but I got a death threat out of it.</p> <p>9 Q. Okay. Do you know who the death threat 10 was from?</p> <p>11 A. It was from his family.</p> <p>12 Q. Was anyone charged in that case?</p> <p>13 A. Nope.</p> <p>14 Q. Do you know who in the family gave you 15 that threat?</p> <p>16 A. I don't -- I saw this on television. I 17 don't remember who was speaking. I believe I was 18 threatened, as was the chief of police, as was the 19 mayor. They got extra protection. I got nothing.</p> <p>20 Q. What year was this?</p> <p>21 A. Oh, shoot, this would have been maybe six 22 years ago or so. I don't recall specifically.</p> <p>23 Q. And was there controversy with respect to 24 Dr. Poulos' autopsy examination?</p>

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<p style="text-align: right;">58</p> <p>1 A. I don't think there was. The controversy 2 revolved around the manner of death determination. 3 But -- and, again, there were other -- the other 4 opinion about the cause of death being 5 undetermined, if you want to call that controversy. 6 But otherwise, no.</p> <p>7 Q. Okay. Well, in this case, Dr. Poulos 8 left the office after this case?</p> <p>9 A. He did.</p> <p>10 Q. And you in fact told him to leave?</p> <p>11 A. I didn't tell him to leave, I recommended 12 that he leave.</p> <p>13 Q. Okay. And did you tell him that you 14 believed it was likely he would be fired from the 15 office?</p> <p>16 A. I told him that was a concern of mine. 17 Not fired by me, I should hasten to add, but there 18 was some political pressure there.</p> <p>19 Q. And who was the political pressure being 20 brought by?</p> <p>21 A. This would have been the common council 22 in Milwaukee.</p> <p>23 Q. And is that like -- tell me what the 24 common council is.</p>	<p style="text-align: right;">60</p> <p>1 opposed to being fired.</p> <p>2 Q. Right. 'Cause if he had been fired, that 3 could have prevented him from being hired again as 4 a medical examiner?</p> <p>5 A. You know, in our line of work, I don't 6 think it would necessarily prevent, because there 7 are so few of us, but it might make it more 8 difficult. And he -- you know, he had done nothing 9 really wrong, so I thought that was a little bit 10 harsh. And I thought he could do just fine getting 11 another job.</p> <p>12 Q. But you recommended that he quit before 13 he be terminated?</p> <p>14 A. I did.</p> <p>15 Q. And that was to help him in his career?</p> <p>16 A. It was.</p> <p>17 Q. And in some ways you were looking out for 18 him?</p> <p>19 A. Oh, I think so.</p> <p>20 Q. And in that case, Dr. Poulos originally 21 found that the manner of death was natural because 22 he believed that the police did not have -- there 23 was no struggle with the police before Mr. Williams 24 was put in the car; correct?</p>
<p style="text-align: right;">59</p> <p>1 A. It's -- so in Milwaukee, we have 2 Milwaukee county, Milwaukee city. So the -- just 3 as the county has a board of supervisors and a 4 county executive, the City of Milwaukee has the 5 common council and the mayor. Corresponding group 6 like that.</p> <p>7 Q. Okay. So they're not -- they're not the 8 city council?</p> <p>9 A. I think maybe you could call it that. I 10 mean, they happen to call them -- they have a 11 different term. They're aldermen, that sort of 12 thing.</p> <p>13 Q. Okay, got it. They're the elected --</p> <p>14 A. They're elected.</p> <p>15 Q. So there were aldermen who wanted 16 Dr. Poulos to be fired from the office?</p> <p>17 A. They used the term punished.</p> <p>18 Q. And one of those punishments would be 19 termination?</p> <p>20 A. Oh, I think so.</p> <p>21 Q. Okay. And so you recommended he leave?</p> <p>22 A. I told him that in terms of ongoing 23 career, it would be better to resign and find 24 another job, which he did in about two days, as</p>	<p style="text-align: right;">61</p> <p>1 A. You know, I'm not sure how much of the 2 police report Dr. Poulos saw before he assigned the 3 manner as being natural. And as I recall, he was 4 focusing more on the specific mechanism being a 5 natural mechanism, and that led to his manner.</p> <p>6 Q. Right. But then he later -- so my 7 understanding is that he initially just relied on 8 the police telling him various information, and 9 that's when he came up with the first manner of 10 death as natural. He then learned later, from 11 various reports, that in fact the officers had put 12 a knee in Mr. Williams' back, and that there was -- 13 there was other force used by the police, and 14 that's why he then changed the manner of death. Or 15 that's why you and he changed the manner of death?</p> <p>16 A. Right. I think -- I think you're right. 17 I think it was the issue of contact and struggle 18 versus no contact and a struggle. And I simply 19 ended up with a fuller understanding of the 20 circumstances that changed the manner that perhaps 21 he didn't have when he decided that it was natural.</p> <p>22 Q. And so you testified at an inquest in 23 that case?</p> <p>24 A. I think there was an inquest and a trial,</p>

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<p style="text-align: right;">62</p> <p>1 because we normally don't do inquests in Milwaukee. 2 Certainly it was in court with a judge, etcetera. 3 But what they exactly called that, I don't 4 remember.</p> <p>Q. Okay. But you believe you also testified in the trial on that case?</p> <p>7 A. There might have been. I mean, it was at 8 one judicial proceeding. I just don't remember 9 what they called that.</p> <p>Q. Okay. So you've said you believe you've now conducted about 9300 autopsies?</p> <p>12 A. Little bit over that, yes.</p> <p>Q. 'Cause you said 9200. So since your --</p> <p>14 A. Right.</p> <p>Q. -- opinion, you've done another --</p> <p>16 A. Done more cases.</p> <p>Q. You've done another hundred-plus cases?</p> <p>18 A. Ish. Right.</p> <p>Q. How long does it take for you to conduct an autopsy?</p> <p>21 A. Depends on the autopsy. You know, I 22 would say anywhere from well under an hour for an 23 average natural death, to seven hours for maybe a 24 complicated case, complicated homicide, complicated</p>	<p style="text-align: right;">64</p> <p>1 percentage for homicides versus natural? 2 A. No. I, like most forensic pathologists, 3 probably looking at all my -- all my cases, all 4 told, roughly ten percent homicide, ten percent 5 accident, ten percent suicide, and the rest 6 natural, with a few undetermined in there. But 7 that's like average numbers for any forensic 8 pathologist with experience.</p> <p>Q. So you're saying that your percentage and the number of cases you've worked on meets the percentage or the types of cases other forensic pathologists work on?</p> <p>13 A. Sure. It's just the way the averages 14 work out with time.</p> <p>Q. What percentage of the cases that you worked on involving children's death were left undetermined?</p> <p>18 A. There have been some. It's less common 19 with children than with adults. You know, I've 20 seen more adults that have been undetermined due to 21 decomposition, skeletonization, mummification, that 22 kind of thing. With the children, it's more a 23 matter of definition. And there are some these 24 days that are looking at what I still -- I still</p>
<p style="text-align: right;">63</p> <p>1 hospital death, that kind of thing.</p> <p>Q. And what percentage of the cases or the autopsies that you've done dealt with children?</p> <p>4 A. All I could say is that hundreds of them 5 have. Maybe even approached a thousand, but I 6 can't give you a specific number. Just too many 7 years, too many cases.</p> <p>Q. But it's likely less than ten percent of your cases?</p> <p>10 A. It could be as much as a thousand. That 11 would be a little bit more than ten percent. But 12 again, I couldn't give you a specific number.</p> <p>Q. Okay. And of those cases, what percentage of those child deaths were homicide?</p> <p>15 A. A good number of them have been. All 16 told, again, I couldn't give you a specific 17 percentage or number.</p> <p>Q. What number of those were accidents?</p> <p>19 A. Again, a good number. I mean, when you 20 think about children in general, you know, natural 21 death is a big chunk, accidents is a big chunk. 22 And both of those are probably bigger than 23 homicide.</p> <p>Q. But you can't tell me the number or</p>	<p style="text-align: right;">65</p> <p>1 use the sudden infant death syndrome terminology. 2 Some forensic pathologists call those undetermined. 3 So if you want to group those 4 into undetermined, I've certainly done, you know, a 5 couple hundred or 300 SIDS cases all told. And I 6 know in hospital practice, when I started out, I 7 had a lot of, say, intrauterine fetal demise-type 8 cases, and those are generally undetermined also.</p> <p>Q. As a medical examiner, is it fair to say that you don't like to leave a case with an undetermined manner of death?</p> <p>12 A. I would say that undetermined tends to be 13 the more frustrating ones. There are times where 14 it's -- put it this way, there's undetermined and 15 there's undetermined. Some undetermined cases are 16 because there's simply no historic way to determine 17 between the two manners, even though we know the 18 cause of death.</p> <p>19 The really frustrating ones are 20 where both cause and manner are undetermined. 21 Where after a complete autopsy and complete 22 toxicology and everything else that we do, we don't 23 have a cause. Yeah, I don't like those at all.</p> <p>24 Those are the worst.</p>

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<p>1 Q. Why is that?</p> <p>2 A. It's just frustrating, because the 3 thinking is maybe if we were smarter, if we had 4 better technology, if the timing had been better, 5 whatever, we'd actually find something. But we 6 don't. And those -- I mean, it's hard on us; it's 7 terrible for the next of kin. We like to offer 8 them closure. And if we don't have a cause of 9 death, we can't do it.</p> <p>10 So I think the majority of those, 11 as we're looking at them now, they'll talk about 12 sudden unexpected death in adults even, certainly 13 sudden unexpected deaths in infants, may be cardiac 14 related, may be, in some cases, asphyxia related, 15 we just don't know. But yeah, they're just 16 extremely frustrating. We like to have answers, 17 and sometimes you just can't get to them.</p> <p>18 Q. Now, the issue with respect to the manner 19 of death being undetermined in Derek Williams' case 20 came up; right? Or the possibility of it being 21 undetermined?</p> <p>22 A. Again, I'll use undetermined in a case 23 occasionally if we're stuck between two competing 24 manners and we don't have a way to decide between</p>	<p>66</p> <p>1 any conditions that lead to pediatric asphyxia?</p> <p>2 A. Hundreds of times.</p> <p>3 Q. What kind of tests have you done?</p> <p>4 A. The autopsy.</p> <p>5 Q. Okay. But beyond the autopsy, have you 6 done any other types of tests?</p> <p>7 A. Sure. I mean, drug and alcohol testing 8 impinges on a lot of those cases. That'll tend to 9 complete our evaluation, though. I mean, drug and 10 alcohol testing plus the autopsy. Sometimes 11 microscopic examination.</p> <p>12 Q. But have you done any test to determine 13 the force that would be used to -- not -- force 14 necessary to cause pediatric asphyxiation?</p> <p>15 A. That would involve the living, and I 16 don't work with the living.</p> <p>17 Q. So you haven't published any papers or 18 documents on the deaths of children or on pediatric 19 asphyxiation; right?</p> <p>20 A. Correct.</p> <p>21 Q. Have you published any papers or 22 documents about the -- about conditions relating to 23 asphyxia in adults?</p> <p>24 A. Well, again, I'll take it from your</p>
<p>1 those two. That wasn't really the case for him. 2 The other option is if there's simply not enough 3 information due to -- due to whatever reason, to 4 come up with a manner. And that really wasn't the 5 case either. So I don't think undetermined would 6 have been particularly credible. I don't think. 7 I guess -- your mileage may vary, 8 and of course whenever you have four forensic 9 pathologists in a room, you're probably going to 10 have five or six opinions about that.</p> <p>11 Q. Have you published any papers or 12 documents about deaths relating to asphyxia, 13 hanging, or strangulation?</p> <p>14 A. No.</p> <p>15 Q. Have you published any papers or 16 documents regarding death in children or deaths of 17 children?</p> <p>18 A. No.</p> <p>19 Q. Have you conducted any research into 20 cases involving pediatric asphyxia?</p> <p>21 A. They won't let us.</p> <p>22 Q. So that would be no?</p> <p>23 A. That would be no.</p> <p>24 Q. Have you conducted any test to evaluate</p>	<p>67</p> <p>1 question that we're excepting the autopsy report?</p> <p>2 Q. No, I'm asking have you published any 3 reports or documents.</p> <p>4 A. Then published -- have I written autopsy 5 reports that have been printed and are on record, 6 sure. Typically, though, I mean, if you're talking 7 about published as in a peer-reviewed publication, 8 no.</p> <p>9 Q. Exactly. Okay. And that's exactly what 10 I'm talking. You haven't published any documents 11 or reports relating to the death of children that 12 have been peer reviewed?</p> <p>13 A. Correct.</p> <p>14 Q. And same with asphyxia?</p> <p>15 A. Correct.</p> <p>16 Q. Whether it's in adults or children?</p> <p>17 A. Right.</p> <p>18 Q. Have you ever given a presentation 19 regarding pediatric asphyxiation?</p> <p>20 A. Not pediatric asphyxiation specifically, 21 but asphyxial death in general, sure.</p> <p>22 Q. And asphyxial death -- all right. So you 23 haven't given any trainings regarding anything 24 related with children strangulation or hanging?</p>

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	70		72
1	A. Oh, in other words, that'll be part of a	1	treatise on pediatric asphyxiation?
2	talk on pediatric death that I've taught on; that	2	A. There's no such textbooks or treatise
3	would be part of a talk on asphyxial death that	3	that I know of.
4	I've taught on. But as I mentioned earlier,	4	Q. I'm going to switch topics here, okay?
5	pediatric asphyxial death would be such a small	5	Do you dispute that the leading cause of death in
6	subset, there wouldn't be enough to hold a group's	6	the United States is accidental trauma for
7	interest for a prolonged period. The other ones	7	children?
8	would.	8	A. There's a lot in that definition that I
9	Q. Well, let me ask. When was the last time	9	would have issues with, beginning with the very
10	you gave a presentation about asphyxial death?	10	thought that unless there's been an autopsy, the
11	A. I do it every year here for a fellow.	11	cause of death is a moving target. There are
12	That would have been within the last several	12	plenty of death certificates that are issued
13	months.	13	without autopsy, even in those kind of cases,
14	Q. Do you have your own outline or syllabus	14	depending on jurisdiction. So without an autopsy,
15	or --	15	it's difficult to be sure.
16	A. It's a PowerPoint.	16	So in that sense, yes, I think if
17	Q. You have a PowerPoint on that?	17	you look at an age subset where there have been
18	A. On asphyxial death, sure. And I have	18	autopsies, then I could -- I could answer more
19	another one on infant death.	19	confidently true or false. But in a general
20	Q. And if I asked you for that PowerPoint on	20	statement like that, that would be my concern.
21	the infant death, would you provide it to me?	21	Q. So you do dispute that the leading cause
22	A. Sure. Just don't use my pictures.	22	of death in children in the United States is
23	Q. I won't. I will -- I'll agree that I	23	accidental trauma?
24	won't use it in any case but this. But I am going	24	A. I would.
	71		73
1	to ask you to produce those PowerPoints.	1	Q. Do you dispute that asphyxia was the
2	A. Sure.	2	fourth leading cause of unintentional death in the
3	MR. KAMIONSKI: Can you just keep a list	3	United States for children between the ages of one
4	of --	4	and four from 2000 through 2006?
5	MS. MOGUL: Yeah, I'll keep a list.	5	A. That's sounds like you've got a pretty
6	MR. KAMIONSKI: I'm trying to take notes	6	specific citation there. I'd have to see that to
7	also and --	7	know, otherwise, I couldn't make an informed
8	MS. MOGUL: I mean, I personally think I	8	evaluation.
9	should have gotten this response to subpoena, but	9	Q. Okay. Do you check CDC studies regarding
10	it's all right. We'll take care of it.	10	pediatric deaths on an annual basis?
11	BY MS. MOGUL:	11	A. I have no reason to do that.
12	Q. Beyond these two PowerPoints on asphyxial	12	Q. So that would be, just for the record,
13	death and infant death, do you have any other	13	no?
14	PowerPoints relating to hanging or strangulation in	14	A. Yeah, no. No, those aren't my cases.
15	children or adults?	15	Q. Do you dispute that the amount of force
16	A. No.	16	needed to occlude blood vessels in children is
17	Q. Have you read any literature on pediatric	17	significantly less than the amount of force needed
18	asphyxiation?	18	to do that in adults?
19	A. There is no -- there's no specific	19	A. It would depend on the blood vessels.
20	literature on that topic, that I'm aware. But	20	You'd have to be a little bit clearer there.
21	those types of cases are part of our general	21	Q. How much force is needed to occlude the
22	forensic pathology literature. So in that sense,	22	jugular vein in a child, a four-year-old child?
23	yes.	23	A. I've never done that myself. In adults,
24	Q. Are you aware of any leading textbook or	24	we talk about five or six pounds.

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<p style="text-align: right;">74</p> <p>1 Q. So adult would be five or six pounds, but 2 you can't say how much force or pounds would be 3 necessary for a child?</p> <p>4 A. Right. Never tried.</p> <p>5 Q. How much force is needed to occlude the 6 carotid artery in a child?</p> <p>7 A. Again, it's not something that I would 8 do. In adults, maybe double the force of occluding 9 a vein.</p> <p>10 Q. So that would be ten to twelve pounds?</p> <p>11 A. Right. It depends on the adult, too, and 12 their state of vascular disease.</p> <p>13 Q. And you -- but you can't give me the 14 amount of force or pounds necessary for a child?</p> <p>15 A. No. I have no reason to be interested in 16 that.</p> <p>17 Q. How much force is needed to occlude a 18 child's airway?</p> <p>19 A. Depends on how it's occluded. It may be 20 no force at all in terms of aspiration, you know. 21 If we're talking about external compression, then 22 it would depend on the age of the child. As they 23 get older, the cartilage develops more. So it's 24 easier in an infant than it is in an older child.</p>	<p style="text-align: right;">76</p> <p>1 especially, there can be changes in the wall of 2 arteries that make it more resistant to 3 compression. That doesn't -- those changes don't 4 particularly affect children.</p> <p>5 Q. Right. So as an adult grows older -- I 6 see. Okay. As an adult grows older, their veins 7 become more resistant to compression?</p> <p>8 A. Arteries.</p> <p>9 Q. Their arteries do?</p> <p>10 A. Right. Or can. Again, depends on the 11 individual.</p> <p>12 Q. But so what you're saying is you believe 13 that in terms of the blood vessels, they could be 14 similar in nature for both children and adults, in 15 terms of compression?</p> <p>16 A. They could be, sure. And that's just 17 speaking of the blood vessels, though. Of course 18 there are other structures around there that can 19 affect that as well.</p> <p>20 Q. So it seems to me that you do then in 21 fact dispute the amount of force needed to occlude 22 blood vessels in children is significantly less 23 than in adults?</p> <p>24 A. I would rest on it depends.</p>
<p style="text-align: right;">75</p> <p>1 Q. So how much force would you say is needed 2 in a four-year-old?</p> <p>3 A. Again, I couldn't give you pounds for 4 that. I have no idea.</p> <p>5 Q. How much in an adult?</p> <p>6 A. Maybe 20 pounds or so. Again, depending 7 on the state of health.</p> <p>8 Q. I'm sorry if I just asked you this. Do 9 you dispute that the amount of force needed to 10 occlude blood vessels in children is significantly 11 less than in adults?</p> <p>12 A. I think I said it depends on the blood 13 vessel, depends on how that is done.</p> <p>14 Q. I see.</p> <p>15 A. A lot of it depends there.</p> <p>16 Q. Okay.</p> <p>17 A. I think veins in children and veins in 18 adults are quite similar. Arteries are different.</p> <p>19 Q. What makes you say that veins in children 20 are similar to adults?</p> <p>21 A. Microscopic study. I mean, you look at 22 them, it's the same endothelium, the same 23 adventitia, it's the same structure. What happens 24 as a person gets older, as an adult gets older</p>	<p style="text-align: right;">77</p> <p>1 Q. And depends on what?</p> <p>2 A. Well, we were just over that. It would 3 depend on the supporting structures around the 4 blood vessel, it would depend on what's going on in 5 the blood vessel wall, it would depend on how that 6 occlusion is done. I guess there would be a lot of 7 variables.</p> <p>8 Q. Do you dispute that children have small 9 structures that collapse easily when force is 10 applied?</p> <p>11 A. That's a pretty generic statement. Small 12 structures.</p> <p>13 Q. Well, smaller structures in their neck 14 that would collapse easily when force is applied.</p> <p>15 A. In general, the structures in a child's 16 neck are smaller than the structure in an adult's 17 neck. Depending. There's a range of normal there. 18 So depending on, let's say, the overall size of the 19 child, that's going to relate to the overall size 20 of the structures in their neck. The size of the 21 structures of their neck may be more or less 22 resistant to compression depending on the specific 23 structures and that child.</p> <p>24 Q. Let me back up then. Do you dispute that</p>

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<p style="text-align: right;">78</p> <p>1 the amount of force needed to occlude blood vessels 2 in a four-year-old child is significantly less than 3 an adult? 4 A. Depending on how the occlusion is done, 5 it may be exactly the same force. 6 Q. Do you dispute that a four-year-old child 7 has smaller structures in his or her neck, and that 8 that -- those structures would collapse more easily 9 when force is applied than in an adult? 10 A. So depending on the child and depending 11 on the adult to whom we're comparing those size -- 12 those sizes may well be different. Now, depending 13 on the specific structures, they may be more or 14 less resistant to compression. Depends on the 15 structures, now. And it depends on how the 16 compression is done. 17 Q. Tell me the difference in -- what would 18 be -- well, first of all, which structures are -- 19 would it depend on? 20 A. Well, because you asked generically, I'm 21 giving you a generic answer. So take, for example, 22 the hyoid bone, all right? So as a person gets 23 older, the hyoid bone tends to calcify. In a 24 child, it has actually a couple of joints. In an</p>	<p style="text-align: left;">80</p> <p>1 hereditary factors. It would depend on the 2 specific individual. 3 Q. But in terms of let's say even the 4 muscles you've just given, wouldn't you say that a 5 four-year-old would have less muscles in their neck 6 than an adult? 7 A. Well, you'd think so, but can there be 8 reasons to have atrophy in an adult? Absolutely. 9 There's a condition, for example, called 10 torticollis that involves sternoclas -- 11 cleidomastoid muscle. Other issues that can affect 12 just how robust -- think of muscular dystrophy, as 13 an example. So it depends on the individual. 14 And as a forensic pathology -- as 15 a forensic pathologist, I tend to look more at the 16 individual that's my patient, not so much a class. 17 Because a lot of times class findings don't apply 18 to that one individual upon whom I'm doing the 19 autopsy. 20 Q. Okay. So as a pathologist, you don't 21 look at class findings, you look at the individual? 22 A. I have to look at the individual. That's 23 my patient. 24 Q. Do you dispute that children have</p>
<p>79</p> <p>1 adult, those tend to calcify. So the hyoid bone in 2 an adult may actually be more resistant to 3 compression just because of the calcification. In 4 a younger person or a child, it may be less 5 resistant because those joints are still cartilage, 6 okay? So that's just the hyoid bone. 7 If you look at structures 8 elsewhere in the neck, it'll depend. The jugular 9 vein, for example, is kind of tucked in between the 10 carotid artery and the strap muscles of the neck. 11 So depending on the size of those muscles, it'll be 12 easier to get to, or less easier to get to. And 13 that's going to vary from person to person too. So 14 there's so many variables. You're asking me a very 15 general question. 16 Q. But I haven't heard you give me one 17 factor that would make it -- I haven't heard you 18 give me one factor that would make those structures 19 stronger and more resistant to force in a child 20 than in an adult. 21 A. Again, it depends on the child and the 22 adult. There can be adults that are significantly 23 less robust and children that could be more, 24 depending on a lot of both environmental and</p>	<p style="text-align: right;">81</p> <p>1 significant difficulties in freeing themselves from 2 events involving strangulation? 3 A. That would involve behavior of the 4 living, and I don't observe that. 5 Q. So you can't -- you don't have enough 6 information to dispute or not dispute that? 7 A. I would have no opinion. 8 Q. Do you dispute that children under five 9 lack comprehension of dangerous situations? 10 A. Simply based on my own experience as a 11 parent, I think that's true. That's anecdotal. 12 Q. That's fine. Do you dispute that you can 13 find petechiae in both accidental and homicidal 14 deaths? 15 A. I would not dispute that. 16 Q. Do you dispute that the accidental 17 wrapping of a free cord with elastic properties 18 around the neck of a child could be difficult for 19 that child to remove? 20 A. I think, hypothetically, it could either 21 be difficult or easy. Again, it would depend on 22 the situation and the circumstances. 23 Q. Okay. So you don't dispute or nondispute 24 that?</p>

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<p>82</p> <p>1 A. Right.</p> <p>2 Q. Do you dispute that marks on the neck of 3 a person who's been strangled or hung could be 4 missing or incomplete?</p> <p>5 A. I'm sorry?</p> <p>6 Q. Do you dispute that marks on a neck of a 7 person who's been strangled can be missing or 8 incomplete?</p> <p>9 A. So since there are different ways of 10 getting to strangulation, it would depend on how 11 it's done.</p> <p>12 Q. Okay. Do you dispute that marks on a 13 neck of a person who's been hung can be missing or 14 incomplete?</p> <p>15 A. Hanged.</p> <p>16 Q. Hanged.</p> <p>17 A. Hanged. And again, depending on how 18 that's done, they certainly could be. It depends 19 on the specific circumstances.</p> <p>20 Q. Right. Depending on the specific 21 circumstances, the ligature that was involved in 22 the hanging may not be -- may not make an 23 impression on the neck?</p> <p>24 A. That's correct. Again, lot of things --</p>	<p>84</p> <p>1 child who has been asphyxiated?</p> <p>2 A. Well, sure. I can give you classes, for 3 example. So one type of asphyxia would be 4 drowning.</p> <p>5 Q. Okay.</p> <p>6 A. Another type of asphyxia would be 7 chemical, in the sense of inhalation of soot and 8 products of combustion, think carbon monoxide, 9 cyanide, soot, that sort of thing from a fire.</p> <p>10 Another type of asphyxia would be mechanical or 11 traumatic or postural asphyxia. Think now about an 12 infant wedged between, say, the mattress and the 13 side of the crib, okay?</p> <p>14 Another type of asphyxia would be 15 from smothering. Now, that would be an object 16 applied to the outside airway, duct tape around the 17 face, hands over the nose and mouth, that sort of 18 thing. Another type of asphyxia would be, you 19 could call it ligature strangulation or 20 garrotement, okay? Now we're talking about a cord 21 or object around the neck.</p> <p>22 Another type of asphyxia would be 23 manual strangulation. Now we're talking about 24 hands around the neck with strap muscle hemorrhage</p>
<p>83</p> <p>1 lot of it depends there.</p> <p>2 Q. What does it depend on?</p> <p>3 A. Oh, beginning with things like time, and 4 then going to the nature of the ligature and the 5 nature of the suspension, be it full or partial.</p> <p>6 Q. And if it was less suspension, you would 7 see maybe less of a ligature mark?</p> <p>8 A. No. I mean, there can be a great 9 ligature mark even with hardly any suspension at 10 all, if the ligature is right. And think about 11 say, for example, I don't know, think about an 12 extension cord versus a bed sheet. And even with 13 full suspension, it would be not uncommon to see 14 not much of a mark with the bed sheet versus a nice 15 discrete mark with a cord. And then time affects 16 that too. So the longer the exposure, the more 17 likely to have a well-defined ligature mark.</p> <p>18 Q. Now, you previously told me you've done 19 an autopsy on a child who was asphyxiated; right?</p> <p>20 A. Lots of them.</p> <p>21 Q. But you can't tell me the number?</p> <p>22 A. No.</p> <p>23 Q. Can you give me any of the circumstances 24 in which you've conducted an autopsy on -- on a</p>	<p>85</p> <p>1 as a diagnostic feature. So any of those things 2 I've seen in children as well as adults. I guess 3 one thing I haven't seen in kids would be chemical 4 asphyxia, say, from cyanide. I've seen that in 5 adults, but not in children.</p> <p>6 MS. MOGUL: I'm sorry, I need to take a 7 bathroom break.</p> <p>8 THE VIDEOGRAPHER: We are going off the 9 record at 10:29 a.m.</p> <p>10 (Break taken.)</p> <p>11 THE VIDEOGRAPHER: This is the beginning 12 of disc number two of the video deposition of Brian 13 L. Peterson, M.D., on March 11, 2016. The time, 14 10:38 a.m.</p> <p>15 BY MS. MOGUL:</p> <p>16 Q. Dr. Peterson, we just took a break. Did 17 you have a chance to speak with Mr. Kamionski over 18 the break?</p> <p>19 A. No.</p> <p>20 Q. So before the break, you were describing 21 the various autopsies you've done on children 22 who've been asphyxiated; right?</p> <p>23 A. Different categories of asphyxial, sure.</p> <p>24 Q. It's a broad category?</p>

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<p style="text-align: right;">86</p> <p>1 A. It is.</p> <p>2 Q. Okay. And -- but so specifically within 3 that category you named -- or strike that.</p> <p>4 Specifically within the category of asphyxia, you 5 identified a subset which you described as 6 ligature, strangulation, or garrotemen; right?</p> <p>7 A. Yes.</p> <p>8 Q. Is it garrotemen or garrotement?</p> <p>9 A. I've always called it garrotemen. I 10 think it's from the French.</p> <p>11 Q. Okay, garrotemen. Okay. How many 12 autopsies of children have you done that have 13 involved ligature, strangulation, or garrotemen?</p> <p>14 A. I couldn't give you a number. I've 15 certainly done them, though.</p> <p>16 Q. Well, what percentage of the 9300 17 autopsies you've done have involved a child who 18 died due to ligature, strangulation, or 19 garrotemen?</p> <p>20 A. Same answer. I can't give you a number. 21 I don't know.</p> <p>22 Q. Would you say it's a small amount?</p> <p>23 A. Well, I guess "small." Is it less than a 24 hundred? Absolutely. You know, is it less than</p>	<p style="text-align: right;">88</p> <p>1 death, okay? So you think about a young girl 2 walking home from a party being attacked, 3 strangled, and left to decompose, that kind of 4 thing. You know, a family annihilation is the term 5 that we use, kind of setting, where perhaps the 6 father kills his kids and his wife and himself, you 7 know, that kind of a multiple, would be another 8 setting for it that I can think of that I've done.</p> <p>9 You know, child as defined say up 10 to age 18, the boyfriend-girl-upset-boyfriend kind 11 of thing using ligature to strangle, those would be 12 the typical settings.</p> <p>13 Q. Okay. Have you ever done an autopsy 14 where you found a child died due to a ligature, 15 strangulation, or garrotemen that was accidental?</p> <p>16 A. I wouldn't use that same term for it. 17 Generally, if it's accidental, the term would be 18 hanging. And sure, that would be the child that 19 gets tangled up in the whatchamacallit, the mini 20 blind cord kind of a thing. Or, frankly, a child 21 hanging, say, under the age of four, where you 22 really don't want to talk about -- it's hard to 23 talk about intent in a kid that age, you know. And 24 they'll talk about, say, the hanging game, the</p>
<p style="text-align: right;">87</p> <p>1 50? Probably. But beyond that, I couldn't be any 2 more specific. I've certainly seen them.</p> <p>3 Q. When's the last time you did an autopsy 4 on a child that involved ligature, strangulation, 5 or garrotemen?</p> <p>6 A. I don't remember.</p> <p>7 Q. Could it be over ten years?</p> <p>8 A. No. It's more recent than that.</p> <p>9 Q. Well -- so you're saying you know that 10 you've done one in the last ten years?</p> <p>11 A. I do.</p> <p>12 Q. Have you done one in the last five years?</p> <p>13 A. Couldn't tell you. I mean, no specific 14 case. I can close my eyes and think of cases that 15 I've done, but when or where those have happened, 16 it's hard to remember. I've just done too many.</p> <p>17 Q. You mean you've done too many autopsies 18 overall?</p> <p>19 A. Absolutely.</p> <p>20 Q. So tell me the circumstances of the cases 21 of children who have died due to ligature, 22 strangulation, or garrotemen.</p> <p>23 A. Well, when you -- those specific terms, 24 when I use those terms, I'm talking about homicidal</p>	<p style="text-align: right;">89</p> <p>1 strangulation game, that kind of a thing, the urban 2 legend sort of deal.</p> <p>3 But I think we've all had cases 4 where, you know, a child thought hanging by a belt 5 in a closet at a young age, five or six, and 6 there's controversy over how to manner that. 7 There's no doubt about the cause of the death and 8 the mechanism. The question is the manner.</p> <p>9 Q. And what is the -- what is the 10 controversy over describing the manner of death in 11 those cases?</p> <p>12 A. Yeah, it's just intent. You know, we try 13 to avoid intent as much as possible, but the 14 question is can a child that age really comprehend, 15 you know, the finality of death and the 16 ramifications of what they're doing. You know, the 17 fact that -- you know, again, I'm thinking of one 18 here, the belt around the neck from the clothes bar 19 in the closet, it would definitely take some steps 20 to get to that point. But did the child really 21 know that she was going to die thereby? I don't 22 know how you tell, you know.</p> <p>23 And I'd always learned, even at 24 medical school, that children up until the age of</p>

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1	six don't really understand the finality of death;	1	sometimes it doesn't.
2	they don't really wrap their heads around that. So	2	Q. When does it affect your manner of death
3	under the age of six, I think in my community	3	determination and when does it not?
4	there'd be some controversy, and those might be the	4	A. Well, it's going to sound trivial, but
5	cases that a lot of us would tend to leave	5	when it's helpful, it affects the manner.
6	undetermined as to manner.	6	Sometimes it's not helpful, you know.
7	Q. So in the case of this girl who was found	7	Q. So in this case you determined her cause
8	hanging in a closet by a belt, did you do the	8	of death was asphyxiation; right?
9	autopsy on that case?	9	A. I would call that asphyxia due to
10	A. Yes.	10	hanging.
11	Q. How did you label that manner of death?	11	Q. So you found the cause of the death?
12	A. That one I labeled undetermined.	12	A. Yes.
13	Q. When did you do that autopsy?	13	Q. But you left the manner of death
14	A. That was within the last couple years.	14	undetermined?
15	Q. Do you have -- do you know the name of	15	A. Correct.
16	the victim?	16	Q. Why?
17	A. No.	17	A. That's because of the whole idea of
18	Q. Did you take pictures in that autopsy?	18	intent in a child that young.
19	A. We always do. I mean, I don't	19	Q. Okay.
20	necessarily -- I didn't necessarily take them, but	20	A. And I think the circumstances in the
21	probably the autopsy assistant did.	21	closet, the belt setup, the belt around the neck,
22	Q. Okay. Were there any ligature marks	22	those all speak to steps, conscious steps, decisive
23	found on her neck?	23	steps, on the part of the decedent. But did she
24	A. I don't recall specifically if there were	24	really have the final outcome in mind? That's the
	91		93
1	in that case. In those kind of situations, it	1	hard part, you know, for a kid that young. And
2	depends more on the exposure time, you know, the	2	that's why I think I, and a lot of us, would call
3	hanging, how much time they were actually lying	3	that undetermined.
4	there, hanging there. It would depend on whether	4	Q. You wouldn't label it accidental?
5	you had a good ligature furrow.	5	A. Well, there's an argument for that,
6	Q. But as you sit here today, you can't tell	6	that's for sure. But I would tend to think
7	us whether there was a ligature furrow at all?	7	accidental more in terms of if she didn't see it
8	A. I don't remember.	8	coming. You know, if she'd gotten entrapped in
9	Q. In that case, did you rely on any	9	something, you know, running into the room, caught
10	investigation that was done of the child's family	10	something around the neck, that kind of a thing.
11	regarding her death?	11	But the fact is, as best anybody could tell, this
12	A. When you say "rely on," you know, I was	12	was all set up by her. So it wasn't an accident in
13	aware of what our -- we have our own medicolegal	13	that sense.
14	death investigators, so they talk to the family.	14	I mean, you might say it was a
15	We also have generally a police report when they	15	hostile environment, but that's pushing that a bit
16	talk to the family. In terms of relying, though,	16	too far. I mean, a bullet in the head is a hostile
17	not so much. I mean, the -- the cause of death is	17	environment too, but it depends how the bullet got
18	an autopsy finding, and that's really -- there's no	18	there. So we don't get quite that fancy with it.
19	specific relationship between that and the	19	Q. And so let me just be clear. When you're
20	investigation. The investigation more drives	20	talking about something that's a hostile
21	manner of death.	21	environment, that's something you're talking about
22	Q. Okay.	22	that has, like, dangerous circumstances or
23	A. And while I'm aware of those things,	23	dangerous --
24	sometimes that affects my determination of manner,	24	A. Or at least potentially dangerous. You

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<p style="text-align: right;">94</p> <p>1 know, think about something natural, like being hit 2 by lightning. Think about being bit by a bug and 3 you have an allergy, you know.</p> <p>Q. Sure. Okay.</p> <p>5 A. Or something in the environment, you 6 know, something toxic, that kind of a thing.</p> <p>Q. Okay. So let me be clear too, then. It 8 seems to me, someone who is -- whose death is due 9 to strangulation, your use of the term 10 "strangulation" connotes homicide?</p> <p>11 A. Well, again, I'm probably looking at 12 strangulation differently than you are. In the 13 world of forensic pathology, that's used for a 14 specific mechanism, okay? Again, there are lots of 15 ways to getting to asphyxia. It depends on what, 16 exactly. There has actually been an attempt in our 17 world to kind of codify that by a forensic 18 pathologist in Canada, and make those definitions 19 more specific.</p> <p>20 But if you look on a death 21 certificate, that's generally where you'll find the 22 answer. There's a block in there that asks 23 basically how did the circumstances arise that led 24 to death. So I would, say, call a case asphyxia</p>	<p style="text-align: right;">96</p> <p>1 A. No. But we hardly ever do, because when 2 somebody's discovered like that, their first 3 impulse is to take them down. So I can't recall 4 the last time I saw an actual scene picture like 5 that, unless it's an adult found hanging.</p> <p>Q. Do you know if she was suspended off the 7 ground?</p> <p>8 A. I don't think she was fully suspended. 9 That would be distinctly unusual, though.</p> <p>Q. Do you know if she was standing up or on 11 her knees?</p> <p>12 A. I don't recall. Kneeling, sitting, but 13 not fully suspended.</p> <p>Q. Do you know whether the belt was above 15 her head, hanging on something, or behind her head?</p> <p>16 A. In this case, it was above. Like I said, 17 it was the -- that bar that you put the hangers on? 18 It was attached to that.</p> <p>Q. And you're saying that bar was above her 20 head?</p> <p>21 A. Right.</p> <p>Q. And how did you know that?</p> <p>23 A. Both from the description of the -- I 24 mean the description of the scene and a picture of</p>
<p style="text-align: right;">95</p> <p>1 due to hanging, and in that block I would say, you 2 know, decedent hanged self with extension cord from 3 rafter, or something like that. So that's where 4 you kind of see it all fleshed out. Because there 5 is some difference in terminology use.</p> <p>6 But to get more to your point, 7 when I use the term strangulation, I'll tend to 8 give it a specific type. So, for example, I'll 9 talk about manual strangulation, done with the 10 hands; you could talk about ligature strangulation, 11 if it's done by another person. Again, I've used 12 garrotement for that as well. You could talk about 13 ligature strangulation with respect to hanging. I 14 don't tend to, you know. I'll just call it 15 asphyxia due to hanging and leave it at that.</p> <p>16 So there is some terminology 17 variation. So that's why I'm trying to be very 18 specific about that strangulation part. So 19 depending on who you're talking to, strangulation 20 wouldn't necessarily mean homicide, depending on 21 how that strangulation happens.</p> <p>Q. Okay. So in the case of this young 23 six-year-old girl, did you have pictures of how she 24 was found in the closet?</p>	<p style="text-align: right;">97</p> <p>1 the closet.</p> <p>Q. Did you know how many times the belt was 3 wrapped around her neck?</p> <p>4 A. I think it was once, but I don't recall 5 specifically.</p> <p>Q. Is there anything you could do to refresh 7 your memory as to whether there was a furrow or how 8 many times the belt was around her neck?</p> <p>9 A. I'd have to find that case, which might 10 be distinctly time-consuming to do.</p> <p>Q. So in that case you left it as 12 undetermined, the manner of death, because you 13 didn't know whether it was accidental, suicide, or 14 homicide?</p> <p>15 A. You know, I would say this. I'm not sure 16 if an under-the-age-of-six child can form the 17 intent to lead to suicide.</p> <p>Q. Right, I understand that. And so it's -- 19 I mean, that's what I'm trying to get at, is you 20 often leave things undetermined because you say 21 it's in between various categories?</p> <p>22 A. Yes. No and yes. I don't often use 23 undetermined. When I do, generally it's because 24 something's between categories, or there's simply</p>

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<p style="text-align: right;">98</p> <p>1 not enough information to make a good decision.</p> <p>2 Q. What's another case where you found death</p> <p>3 of a child due to strangulation?</p> <p>4 A. Oh, the one that generally sticks out in</p> <p>5 my mind is one that I did back in my California</p> <p>6 years. It involved a little girl coming home from</p> <p>7 her 15th birthday party. She was found partially</p> <p>8 buried. She had been strangled with a, I think it</p> <p>9 was a lanyard. I think she had like an ID lanyard,</p> <p>10 that kind of a thing. And that was a frustrating</p> <p>11 one, because they never found out who was</p> <p>12 responsible for it.</p> <p>13 Q. Okay. And so this was something you did,</p> <p>14 again, back --</p> <p>15 A. Back in the day.</p> <p>16 Q. -- over 30 years ago?</p> <p>17 A. No, I left California -- let me give you</p> <p>18 the specific year here. Too many numbers. So I</p> <p>19 left there in 2007. So this would have been</p> <p>20 somewhere between, say, 1992 and 2007.</p> <p>21 Q. Okay. You can't narrow it down between</p> <p>22 those years?</p> <p>23 A. No. Too many cases.</p> <p>24 Q. Okay. Again, too many cases overall?</p>	<p style="text-align: right;">100</p> <p>1 A. I don't think so.</p> <p>2 Q. Was there petechiae in her head?</p> <p>3 A. I don't remember.</p> <p>4 Q. In the six-year-old's case, was there</p> <p>5 petechiae?</p> <p>6 A. I don't think so.</p> <p>7 Q. What makes you say you don't think so?</p> <p>8 A. Petechiae aren't particularly common. So</p> <p>9 when we see them, maybe it's easier to remember.</p> <p>10 Q. And so petechiae aren't common in either</p> <p>11 hanging or strangulation cases?</p> <p>12 A. They're more common in strangulation. I</p> <p>13 would say that the times that I see petechiae in</p> <p>14 hanging tend to be in those people that are more</p> <p>15 suspended, and then you'll see them lower on the</p> <p>16 body, like on the legs, feet and legs. But</p> <p>17 certainly if you're talking about manual</p> <p>18 strangulation or ligature strangulation, homicidal,</p> <p>19 in other words, it's more common then to see</p> <p>20 petechiae face, eyes, mucosa, that sort of thing.</p> <p>21 Q. So you've given me circumstances of two</p> <p>22 cases involving children who were -- wait. Strike</p> <p>23 that. Let me just ask. With respect to the</p> <p>24 six-year-old, I know you're telling me what the</p>
<p style="text-align: right;">99</p> <p>1 A. Right.</p> <p>2 Q. Okay. And in that case, you said she'd</p> <p>3 been strangled with a lanyard?</p> <p>4 A. Right.</p> <p>5 Q. And you don't know who?</p> <p>6 A. Nobody knows who, right.</p> <p>7 Q. Okay. And were there any ligature marks</p> <p>8 on her neck?</p> <p>9 A. She had a faint ligature mark that was</p> <p>10 consistent with that lanyard.</p> <p>11 Q. It was a faint ligature mark where on her</p> <p>12 neck?</p> <p>13 A. Whether it was high or low, I don't</p> <p>14 remember.</p> <p>15 Q. Did it fully encompass her entire neck?</p> <p>16 A. It did for her.</p> <p>17 Q. So in that case, it was a full</p> <p>18 360 degrees around her neck?</p> <p>19 A. I think it was.</p> <p>20 Q. Was it -- was there more than one</p> <p>21 ligature -- was there more than one furrow?</p> <p>22 A. No.</p> <p>23 Q. Do you have any pictures from this -- of</p> <p>24 this ligature impression?</p>	<p style="text-align: right;">101</p> <p>1 common phenomena is petechiae, but as you sit here</p> <p>2 today, is it fair to say you don't remember if</p> <p>3 there was any petechiae?</p> <p>4 A. No, I don't remember specifically in that</p> <p>5 case. What I'm saying is that in my case</p> <p>6 experience, it's much more common to see petechiae</p> <p>7 in that kind of a case from strangulation, in other</p> <p>8 words, death at the hands of another, as opposed to</p> <p>9 suicide by hanging.</p> <p>10 Q. Right. Okay. So let's just talk about</p> <p>11 petechiae for a second. Petechiae is a phenomenon</p> <p>12 that's caused when the jugular vein is occluded,</p> <p>13 but the carotid artery may not be. And so you have</p> <p>14 blood that's rushing into the brain, and the</p> <p>15 blood's not coming out of the brain, and that's why</p> <p>16 you get those little red spots?</p> <p>17 A. That's how I've always understood it.</p> <p>18 It's a pressure phenomenon.</p> <p>19 Q. Yes. So often you may find petechiae in</p> <p>20 strangulation cases versus hanging cases, because</p> <p>21 in hanging cases, usually the death is more</p> <p>22 instantaneous, in that the force is generally quick</p> <p>23 enough that it shuts down the entire neck and</p> <p>24 airway, so that -- that's why you see the lack of</p>

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<p>1 petechiae in the face and head; is that fair to 2 say?</p> <p>3 A. Well, I think that's one factor, you 4 know. I think there are a couple other potential 5 ones. One of them is that I've always thought that 6 with -- the times that I've seen the most robust 7 petechiae have been manual strangulation. And --</p> <p>8 Q. "Manual" being by hand?</p> <p>9 A. By the hands, sure.</p> <p>10 Q. And that's because it takes -- there's 11 struggle and there's pressure put on, that takes a 12 while to kind of shut down the entire airways, 13 carotid arteries, right? So you see this pressure 14 going -- blood going into the brain but not coming 15 out?</p> <p>16 A. Back up a little bit.</p> <p>17 Q. Okay.</p> <p>18 A. Airway, no. All right? So it would be 19 distinctly uncommon, rare, for airway compromise to 20 be involved at all. I mean, as you know, somebody 21 that has a stoma and a ligature above that from 22 hanging dies just fine. So asphyxial death that 23 we're talking about here tends to be neurovascular. 24 I think that might be part of the petechiae</p>	<p>1 A. At least potential.</p> <p>2 Q. Potential. But usually in a hanging case 3 it's quicker than in a manual strangulation case, 4 the death?</p> <p>5 A. That would be hard for me to say, you 6 know, because I'm not observing them. But time 7 might be a factor. You know, the way that the 8 pressure is applied to the neck might be a factor. 9 I mean, I can see other things going on there too.</p> <p>10 Q. So it's both time and pressure in terms 11 of what may produce petechiae in the head or not?</p> <p>12 A. May, right.</p> <p>13 Q. Okay. So you've just given us two cases 14 involving hanging or strangulation of children, the 15 circumstances. Give me another example.</p> <p>16 A. Well, I've only given you those two 17 because those are the ones that stand out in my 18 mind. One because we discussed the manner of death 19 here with our staff, you know, as a teaching point; 20 the other because it was not solved, which was very 21 frustrating. While I've done other ones, nothing 22 particularly stands out in my mind. I mean, I know 23 I've done plenty of others. But in terms of 24 specific circumstances, closing my eyes, seeing the</p>
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<p>1 phenomenon in strangulation. Perhaps with hanging, 2 there's more compromise of the carotid body, tends 3 to trigger a vagal response and slow the heart 4 down. Maybe that brings death faster.</p> <p>5 The other thing about 6 strangulation, I've always kind of thought that 7 it's probably hard work, and maybe during that 8 struggle there's kind of a catch-and-release 9 phenomenon, more pressure, less pressure. And as 10 there's blood vessel damage, flow is damped down. 11 When that pressure is released, now you have flow 12 through damaged vessels. Maybe that's why you get 13 more robust petechiae.</p> <p>14 I mean, obviously it would be a 15 tough thing to study, you know. But I think there 16 are probably two or three different factors at play 17 there. What it ends up with for us is, doing these 18 cases, just that, you do tend to see the, I mean, 19 really robust petechiae in the manual strangulation 20 more.</p> <p>21 Q. And so in terms of the cause of that, I 22 guess I want to -- I understand that you've 23 enumerated various causes for why that might 24 happen.</p>	<p>1 face, I can't do it.</p> <p>2 Q. Okay. I guess you can't give me names, 3 clearly, or you can't give me the names of either 4 of these victims?</p> <p>5 A. No.</p> <p>6 Q. And you can't -- but you can't tell me 7 any other circumstances you've done an autopsy of a 8 child that died of -- either from hanging or 9 strangulation?</p> <p>10 A. Beyond what I started out with the family 11 annihilation kind of setting, you know, where the 12 guy kills the entire family, then himself.</p> <p>13 Q. So tell me what happened in that case.</p> <p>14 A. Just that.</p> <p>15 Q. How did he kill the children?</p> <p>16 A. Well, we're talking about strangulation. 17 Strangulation, you know. I've seen that done 18 several different ways; strangulation is one of 19 them.</p> <p>20 Q. Well -- and that -- okay. So give me the 21 example. This father killed his wife and children?</p> <p>22 A. Right.</p> <p>23 Q. All right. And you're saying he manually 24 strangled his children?</p>

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<p>1 A. Right.</p> <p>2 Q. And so he used his hands?</p> <p>3 A. That's manual, right.</p> <p>4 Q. So when you're using the term "manual"</p> <p>5 throughout this deposition, you've always meant</p> <p>6 hands?</p> <p>7 A. Yeah. I think that's the generally</p> <p>8 accepted definition for manual strangulation. It</p> <p>9 doesn't specify angle, you know, from front or from</p> <p>10 back, but it's hands.</p> <p>11 Q. Okay, I understand. So in the case of</p> <p>12 those children, how many children did he kill?</p> <p>13 A. I don't remember the number, but I</p> <p>14 certainly remember the -- I mean, the defining</p> <p>15 thing is the strap muscle hemorrhages. And that's</p> <p>16 what you remember seeing.</p> <p>17 Q. Can you tell me what that means, the</p> <p>18 strap muscle?</p> <p>19 A. I'm sorry. So turn your head to the</p> <p>20 side. That big muscle there is called the</p> <p>21 sternocleidomastoid. You've got about six pair of</p> <p>22 muscles inside the neck. And manual strangulation</p> <p>23 is -- I mean, the circumstance is defined as seeing</p> <p>24 bleeding in those muscles. I mean, you can get it</p>	<p>1 dissection.</p> <p>2 Q. Okay.</p> <p>3 A. My practice is always to take the neck</p> <p>4 organs out, but we don't always need to do a</p> <p>5 layer-wise neck dissection.</p> <p>6 Q. What are the neck organs you take out?</p> <p>7 A. Think about starting at the epiglottis</p> <p>8 and going down. Epiglottis, larynx, you know,</p> <p>9 thyroid gland, etcetera. The whole tube,</p> <p>10 essentially.</p> <p>11 Q. Okay. So let me -- in the case of this</p> <p>12 man who killed his family, including his children,</p> <p>13 he used his hands; right?</p> <p>14 A. Right.</p> <p>15 Q. Could you see his hands or fingerprint</p> <p>16 marks on the children's neck?</p> <p>17 A. No. But normally you don't. I mean, the</p> <p>18 very most you might see in a case like that would</p> <p>19 be little curved abrasions. We often call those</p> <p>20 fingernail abrasions, with the thought that those</p> <p>21 might even be from the victim trying to pull the</p> <p>22 hands away.</p> <p>23 Q. So you see those curved abrasions on the</p> <p>24 neck?</p>
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<p>1 from other reasons, but it's blunt force injury to</p> <p>2 those muscles caused by fingers or thumbs.</p> <p>3 Q. So you didn't see that kind of strap --</p> <p>4 what is it called?</p> <p>5 A. Strap muscle hemorrhage.</p> <p>6 Q. You didn't see that in the case of the</p> <p>7 six-year old or the 15-year-old?</p> <p>8 A. No, in hangings you don't see it. Well,</p> <p>9 I take that back. I have seen it, but it would be</p> <p>10 the very unusual hanging, where somebody begins</p> <p>11 suspended and then drops. And in those kinds of</p> <p>12 cases, you can see hemorrhage in those muscles.</p> <p>13 Q. Okay. And how do you -- how do you find</p> <p>14 that kind of hemorrhage in the muscles?</p> <p>15 A. It's a -- we do a layer-wise dissection.</p> <p>16 So after you take out the chest and abdomen organs,</p> <p>17 and after you take out the brain, then it's a</p> <p>18 matter of taking the neck flap up higher, kind of</p> <p>19 dividing the midline, and then you just follow</p> <p>20 those groups side by side and bring them up like</p> <p>21 so. It looks kind of like a flower once you're</p> <p>22 done.</p> <p>23 Q. What kind of examination is that called?</p> <p>24 A. I would call that a layer-wise neck</p>	<p>1 A. Sometimes. Less often you see nothing at</p> <p>2 all.</p> <p>3 Q. Were there any curved abrasions on the</p> <p>4 children in that case?</p> <p>5 A. No. Mostly you see nothing exterior at</p> <p>6 all.</p> <p>7 Q. But did you, in that case, do this</p> <p>8 laryngeal neck -- say it for me again.</p> <p>9 A. Layer-wise neck dissection. Yes.</p> <p>10 Q. So you did the layer-wise neck dissection</p> <p>11 in each of those children?</p> <p>12 A. Right.</p> <p>13 Q. And then you could see -- tell me</p> <p>14 again the --</p> <p>15 A. It's strap muscle hemorrhage. And what</p> <p>16 you're looking for, really, is full thickness</p> <p>17 hemorrhage in a muscle. Because blunt force neck</p> <p>18 injury by itself -- say you get punched in the</p> <p>19 neck. You can have a little surface hemorrhage in</p> <p>20 one of those muscles. But to have robust, full</p> <p>21 thickness hemorrhage, that's from manual</p> <p>22 strangulation.</p> <p>23 Q. When was this case you're talking about</p> <p>24 with the father and the children? When did you do</p>

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<p style="text-align: right;">110</p> <p>1 that autopsy?</p> <p>2 A. I can say that was in northern</p> <p>3 California, but I can't give you a specific year.</p> <p>4 Q. So that was before -- 2007 or before?</p> <p>5 A. Or before, right.</p> <p>6 Q. Have you done a case like that since?</p> <p>7 A. We've had family annihilations here and</p> <p>8 multiple kid deaths, but not by that kind of</p> <p>9 strangulation. Other kinds of asphyxia, sure, but</p> <p>10 not from that.</p> <p>11 Q. Not from either hanging or ligature,</p> <p>12 strangulation, or garrotement?</p> <p>13 A. As a family killing, no.</p> <p>14 Q. You've now given me three cases involving</p> <p>15 some sort of hanging or strangulation of children.</p> <p>16 Can you give me any other?</p> <p>17 A. Not specifically. Again, done lots of</p> <p>18 autopsies on those kind of cases, but those are the</p> <p>19 ones that stick out because they're different.</p> <p>20 Q. I know, but -- these are three cases</p> <p>21 involving children who've died by hanging or</p> <p>22 strangulation?</p> <p>23 A. Right.</p> <p>24 Q. Right. And you can't give us the</p>	<p style="text-align: right;">112</p> <p>1 suicides?</p> <p>2 A. You know, I would say somewhere between</p> <p>3 that and gunshot wounds. With people under 18, it</p> <p>4 would be more common to see hanging just because of</p> <p>5 access. But some of them get their hands on</p> <p>6 firearms too.</p> <p>7 Q. Okay. So in terms of the -- tell me the</p> <p>8 last circumstance of a suicide autopsy you've done.</p> <p>9 A. I mean, the last suicide autopsy would</p> <p>10 have been Mon -- no, Friday, last Friday. Gunshot</p> <p>11 wound to the head.</p> <p>12 Q. Give me the last case of a suicide</p> <p>13 involving hanging or strangulation that you've</p> <p>14 done.</p> <p>15 A. I think I've done a hanger within the</p> <p>16 last -- I'm sorry, that's jargon. I think I've</p> <p>17 done a hanging suicide within the last couple of</p> <p>18 weeks, just can't remember the age. But we see</p> <p>19 that not uncommonly.</p> <p>20 Q. And how did this person hang himself?</p> <p>21 A. Again, they just aren't memorable enough</p> <p>22 to me. I mean, just another hanging suicide to me.</p> <p>23 Q. Did they have ligature marks on their</p> <p>24 neck?</p>
<p style="text-align: right;">111</p> <p>1 circumstances of any other cases involving children</p> <p>2 due to hanging or strangulation?</p> <p>3 A. Well, specific circumstances, no. I</p> <p>4 mean, if you take the group of, say, suicidal</p> <p>5 hanging that would be, say, over the age of six, up</p> <p>6 to the age of 18, plenty of those. But there's --</p> <p>7 I mean, there's nothing particularly memorable or</p> <p>8 interesting about those circumstances, generally.</p> <p>9 Q. So you're saying -- okay. A child over</p> <p>10 six. Is six a cutoff for you in terms of suicide,</p> <p>11 or not?</p> <p>12 A. Right. Over six -- again, if the history</p> <p>13 and circumstances are right, I'll tend to talk more</p> <p>14 about suicide and less about undetermined.</p> <p>15 Q. Okay. Well, when's the last time you did</p> <p>16 an autopsy of a child from six to 18 who committed</p> <p>17 suicide?</p> <p>18 A. Gosh, probably within the last few weeks.</p> <p>19 Q. Okay. And when -- what kind of suicide?</p> <p>20 Did they -- how did -- let me be clear. I'm</p> <p>21 talking about suicides that involve hanging or</p> <p>22 strangulation.</p> <p>23 A. So that kind.</p> <p>24 Q. Is that the most common kind for</p>	<p style="text-align: right;">113</p> <p>1 A. I don't remember.</p> <p>2 Q. Did they have petechiae?</p> <p>3 A. I couldn't tell you.</p> <p>4 Q. I understand. But I'm going to have to</p> <p>5 ask these questions.</p> <p>6 A. No, that's fine. Just understand, I</p> <p>7 mean, this is what I do day in and day out, several</p> <p>8 hundred a year, so it just gets difficult to</p> <p>9 remember one from another unless there's something</p> <p>10 that really stands out about them.</p> <p>11 You know, I can think of a</p> <p>12 hanging suicide I did here, very tight, smooth,</p> <p>13 quarter-inch electrical cord around the neck with</p> <p>14 one knot beneath the right ear. Why do I remember?</p> <p>15 Because he had a tattoo on his arm of somebody</p> <p>16 hanging from a tree. Now, see that's -- that you</p> <p>17 remember. And that kind of brings the other</p> <p>18 details to mind. Otherwise, they just start kind</p> <p>19 of blending in after awhile.</p> <p>20 I'm not trying to be difficult,</p> <p>21 it's just that I do so much of this stuff, unless</p> <p>22 it's something really interesting, I'm not going to</p> <p>23 remember specifically.</p> <p>24 Q. So just we're clear, you're saying you</p>

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<p>1 can't remember 'cause you just do so many autopsies</p> <p>2 a year?</p> <p>3 A. Part of it is the volume of autopsies,</p> <p>4 part of it is that you see so much of everything.</p> <p>5 Gosh, you're asking me -- to ask me if one autopsy</p> <p>6 months ago had petechiae is like asking did you</p> <p>7 have grapefruit for breakfast seven months ago.</p> <p>8 Can't tell you. You know, I know I've had</p> <p>9 grapefruit for breakfast, but whether that one case</p> <p>10 had petechiae, I don't remember.</p> <p>11 Q. Okay. So -- wait. Let's get back to</p> <p>12 this case of the person with the electrical cord</p> <p>13 and the knot on the side. Where was that case?</p> <p>14 Where did you do that autopsy?</p> <p>15 A. Right downstairs.</p> <p>16 Q. When did that happen?</p> <p>17 A. That was about, I think, three years ago.</p> <p>18 Q. Okay. And that was of an adult?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And you're saying they had an</p> <p>21 electrical cord?</p> <p>22 A. Right.</p> <p>23 Q. And so tell me the circumstances of that</p> <p>24 death.</p>	<p>1 A. Don't remember.</p> <p>2 Q. Do you know how many times the cord was</p> <p>3 wrapped around his neck?</p> <p>4 A. I think there was one loop. So it would</p> <p>5 be the usual --</p> <p>6 Q. Did he come in with the loop around his</p> <p>7 neck?</p> <p>8 A. Yes. We hope to get that. I mean,</p> <p>9 sometimes they cut that off at the scene. But</p> <p>10 particularly if there's been a longer hanging time</p> <p>11 and they're overtly dead when whoever gets there,</p> <p>12 gets there, then they'll leave them and bring in</p> <p>13 the ligature with them, or even on them.</p> <p>14 Q. So in that case you had the benefit of</p> <p>15 having the ligature around him when he came in?</p> <p>16 A. Right. Still in place.</p> <p>17 Q. That's how you could determine it was one</p> <p>18 loop?</p> <p>19 A. Right. I mean, one loop, either -- you</p> <p>20 can tell that because the ligature's still in</p> <p>21 place. Or if it's off, if there's just one furrow,</p> <p>22 that tells us it's one loop for a hanging case. Or</p> <p>23 multiple. You know, I've seen that too.</p> <p>24 Q. Multiple what?</p>
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<p>1 A. What I can tell you is he had a great</p> <p>2 tattoo, really well done, really well defined, nice</p> <p>3 work, but it was a tree and a fella hanging with,</p> <p>4 like, a hood over his head, from the tree. That's</p> <p>5 what I remember.</p> <p>6 Q. Okay. But in terms of was the electrical</p> <p>7 cord wrapped around his head multiple times?</p> <p>8 A. No, no. I think it was a single loop</p> <p>9 around the neck, again, with, like, a right</p> <p>10 subaurale knot.</p> <p>11 Q. Okay. Right subaurale --</p> <p>12 A. Under the ear.</p> <p>13 Q. Okay.</p> <p>14 A. Which is neither here nor there. I mean,</p> <p>15 that knot can be anywhere, and it still works just</p> <p>16 fine.</p> <p>17 Q. What was the cause of death in that case?</p> <p>18 A. Asphyxia due to hanging.</p> <p>19 Q. How did you label the manner of death in</p> <p>20 that case?</p> <p>21 A. Suicide.</p> <p>22 Q. Were there furrows on his neck?</p> <p>23 A. There was a furrow.</p> <p>24 Q. Was there petechiae?</p>	<p>1 A. In other words, multiple loops around the</p> <p>2 neck in a hanging case gives you a complex furrow</p> <p>3 that may have multiple ridges, multiple loops.</p> <p>4 Depends on the ligature, again, too.</p> <p>5 Q. Right. Depends on what type of material</p> <p>6 is wrapped around?</p> <p>7 A. Right.</p> <p>8 Q. Because some material will leave more</p> <p>9 furrows, some material may not?</p> <p>10 A. Right. That plus the time. Even a nice,</p> <p>11 discrete object may not leave much of a furrow if</p> <p>12 there's a short hanging time.</p> <p>13 Q. Can you describe any other circumstances</p> <p>14 of any other case you've done an autopsy of</p> <p>15 involving hanging or strangulation, beyond the</p> <p>16 three cases of the children you described and this</p> <p>17 one adult with the tattoo?</p> <p>18 A. When you say circumstances, I mean, I can</p> <p>19 remember different types of ligature, for example,</p> <p>20 different material was used for ligature. I can</p> <p>21 remember circumstances where -- as I said, the --</p> <p>22 even up to and including a hangman's fracture. If</p> <p>23 there's suspension and then release and they drop.</p> <p>24 So those are the kind of things that, for a</p>

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<p>1 forensic pathologist, tend to stick out. But other 2 circumstances, I'm not sure what you mean. 3 Somebody was depressed, you know.</p> <p>Q. So let me ask this. Have you ever worked on a case or done an autopsy of a case where someone died due to hanging or strangulation due to an elastic band from a bed sheet?</p> <p>8 A. I don't think so. Yeah, I don't think 9 I've done one of those.</p> <p>Q. Have you ever done a hanging or strangulation case involving some sort of ligature that had elastic properties?</p> <p>13 A. Some of the ligatures I have taken off, 14 some belts, for example -- I mean, when you say 15 elastic properties, stretchy? Sure.</p> <p>Q. So what kind of material was the belt?</p> <p>17 A. I mean, whatever it was, it was stretchy. 18 I mean, it looks like a web belt, you know what I 19 mean, like a military belt. But it just happened 20 to be stretchable.</p> <p>Q. Okay.</p> <p>22 A. A bungee cord, I've seen that. The -- 23 what would you -- like a tow strap, you know what I 24 mean, like the -- it looks kind of like flat rubber</p>	<p>118</p> <p>1 been, say, ten percent some offices, if they're low 2 volume, can do. And I think we're a little bit 3 unique in the sense that, for example, all the 4 police-involved ones we look at. That's a county 5 statute now.</p> <p>Q. Right. And that changed in light of the Derek Williams case?</p> <p>8 A. Right.</p> <p>Q. But again, I just want to say it like the vast, vast majority of autopsies you've done have not been subjected to peer review?</p> <p>12 A. Correct.</p> <p>Q. And depending on the properties of the ligature itself, like what material it's made of and the amount of time, the less amount of time that that ligature was around the neck, the less likely you would see prominent furrows; is that fair to say?</p> <p>19 A. Yeah. I mean, as I said, it'll depend a 20 little bit on the nature of the ligature. So you 21 could have something hard-edged; I remember a snap 22 tie sui -- snap the -- you know, you put the one 23 end into the other and -- like electricians use. 24 So this is like that. And with something that</p>
<p>119</p> <p>1 with a hook on each end, but it can stretch a 2 little bit. I've seen that.</p> <p>Q. And in terms of your -- the autopsies you've done, were they subjected to peer review in any way?</p> <p>6 A. Depends on the case. For example, this 7 office, if there's any death that involves police 8 action now, we have a thing we call difficult case 9 conference. That's peer review. We also do a 10 percent peer review every year where we look at 11 each other's cases.</p> <p>Q. But that's like an auditing function?</p> <p>13 A. It is, yeah. I mean, but it's looking at 14 the entire case, including the autopsy report. But 15 it's not specifically directed at a case, it's just 16 pulling examples of the different manner of death 17 and looking at those. So, I mean, it's peer review 18 in that sense, but it's kind of a random case 19 selection.</p> <p>Q. But -- so the vast majority of autopsies you've conducted have not been subjected to peer review?</p> <p>23 A. Correct, yeah. No office does that. I 24 think the most -- the highest number I've seen has</p>	<p>121</p> <p>1 hard, even brief time, you'll see a furrow. 2 The other end of that is even 3 longer time with something that's kind of soft, 4 like a bed sheet, like you see in some prison 5 suicides, there tends to be nothing on the neck at 6 all. And then anything in between. And of course 7 I've done plenty of cases where there's clearly 8 been that kind of action, but now the body's 9 decomposed. And with decomposition, that evidence 10 just goes away.</p> <p>Q. But I'm just saying generally, you're saying -- 'cause you keep saying it depends on the amount of time the ligature is. The less time the ligature is around the neck, the less likely you're going to see a ligature impression?</p> <p>16 A. Right. What I'm saying is as a rule of 17 thumb, that's true. But like all rules of thumb, 18 there are exceptions.</p> <p>Q. Right. So have you ever -- are you aware of any cases where an adult or child was asphyxiated by ligature where there was no marked ligature impression?</p> <p>23 A. Oh, absolutely.</p> <p>Q. So -- and you've said that you've never</p>

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<p style="text-align: right;">122</p> <p>1 done an autopsy involving a ligature of an elastic 2 band from a bed sheet; right?</p> <p>3 A. I don't think so. I mean, I -- I guess I 4 could have done it and not known it.</p> <p>5 Q. Right. Other than this case, are you 6 aware of any autopsies or studies of someone who 7 died due to a ligature involving an elastic band 8 from a bed sheet?</p> <p>9 A. There's no such study that I know of. No 10 case group of experiences, no.</p> <p>11 Q. Okay. And so you also -- you just 12 testified that you've seen cases where someone was 13 asphyxiated by a ligature and there was no marked 14 ligature impression.</p> <p>15 A. Correct.</p> <p>16 Q. And did those cases also involve 17 instances where the ligature was wrapped multiple 18 times around a person's neck?</p> <p>19 A. Both ways.</p> <p>20 Q. Okay. It could be -- yeah. So you're 21 saying you've seen cases where a ligature has been 22 wrapped multiple times around a person's neck and 23 there's no ligature mark?</p> <p>24 A. Right.</p>	<p style="text-align: right;">124</p> <p>1 A. Correct.</p> <p>2 Q. And what was the expert opinion you 3 provided in that case?</p> <p>4 A. My opinion was that the -- the trauma 5 that Mr. Robinson described was inconsistent with 6 the injuries that he had. And in fact, the 7 injuries that he had would have been consistent 8 with self-infliction. It would have been possible.</p> <p>9 Q. What kind of injuries did he have?</p> <p>10 A. The -- from the photographs that I looked 11 at, he had some scratches. I mean, you could call 12 that a superficial abrasion, essentially.</p> <p>13 Tangential kind of injury. And that was it. And 14 the -- substantially less than the trauma he 15 described, you know, having received.</p> <p>16 Q. Okay. And that -- did you give a 17 deposition in that case?</p> <p>18 A. You know, I remember testifying. I don't 19 remember if I was deposed on that one. I was?</p> <p>20 Okay, I'm getting a nod, so I think I was.</p> <p>21 Q. Who were the attorneys who deposed you in 22 that case?</p> <p>23 A. Oh, I don't remember.</p> <p>24 Q. And when you gave your expert opinion in</p>
<p style="text-align: right;">123</p> <p>1 Q. I'm switching topics again. Have you 2 ever consulted or been asked to provide expert 3 opinions to anyone from the Hale Law Group beyond 4 this case?</p> <p>5 A. I've looked at other cases for them, yes.</p> <p>6 Q. How many other cases have you looked at 7 for the Hale Law Group?</p> <p>8 A. Gosh, two or three.</p> <p>9 Q. And have you provided expert opinion in 10 those cases?</p> <p>11 A. Yes.</p> <p>12 Q. And have you testified in those cases?</p> <p>13 A. One case, I did.</p> <p>14 Q. What was the name of that case?</p> <p>15 A. That was Robinson v. -- I think it's in 16 here. Robinson v. City of Chicago. It's on the 17 first page there. Cook County, Illinois. Right 18 there, about sixth from the top.</p> <p>19 Q. I see. What kind of case was that?</p> <p>20 A. That was a gentleman that alleged that he 21 had been abused in police custody and claimed to 22 have injuries caused by the police.</p> <p>23 Q. And they were representing the police 24 officers in that case?</p>	<p style="text-align: right;">125</p> <p>1 that case, was that in your private capacity or in 2 the office of the medical examiner?</p> <p>3 A. No, all of the Hale law firm cases I've 4 done have been as a Milwaukee county person for the 5 office.</p> <p>6 Q. Okay. Do you know what happened as a 7 result of that trial?</p> <p>8 A. I don't know. Don't care.</p> <p>9 Q. Okay. So let me -- and in that -- okay. 10 Was that case in state court or federal court?</p> <p>11 A. State court. I've got Cook County, 12 Illinois, here.</p> <p>13 MS. MOGUL: Who was plaintiff's counsel?</p> <p>14 MR. KAMIONSKI: Pardon?</p> <p>15 MS. MOGUL: Who was plaintiff's counsel?</p> <p>16 MR. KAMIONSKI: Do you know who Brian 17 Mocco is?</p> <p>18 MS. MOGUL: Yeah.</p> <p>19 BY MS. MOGUL:</p> <p>20 Q. All right. So that was one case you 21 worked on. The next case on your CV is Redmond 22 versus Ziad. That's a Cook County case.</p> <p>23 A. Oh, that was a -- that was -- that wasn't 24 with the same law firm, though. That was a medical</p>

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<p>1 malpractice case.</p> <p>2 Q. I see. Okay. And were you on the <p>3 plaintiff's or defense side?</p> <p>4 A. I was on the defense side for that one.</p> <p>5 Q. And who was the law firm in that case?</p> <p>6 A. I don't remember.</p> <p>7 Q. Okay. What was the medical malpractice <p>8 alleged?</p> <p>9 A. This one involved a -- it was a critical 10 care-type case, long, complicated hospitalization. 11 Just -- I mean, what you call a medical train wreck 12 kind of case. And the doctor that was being sued 13 had put a chest tube in at the, you know, tube 14 thoracostomy at the end, and the allegation was 15 that the tube thoracostomy had caused injury to an 16 intercostal artery and then death by essentially 17 internal exsanguination due to that tube. There 18 was an autopsy in that case, and the autopsy didn't 19 support that conclusion. So that was my analysis 20 there.</p> <p>21 Q. Let me go back to the case Robinson 22 versus City of Chicago. How much money were you 23 paid to provide your expert testimony in that case?</p> <p>24 A. I wasn't paid anything.</p> </p></p>	<p>1 Q. Okay. So Mr. Kamionski's head is nodding 2 yes --</p> <p>3 A. Yeah. I'm glad for that, yeah.</p> <p>4 Q. Okay. So the office of the medical 5 examiner of Milwaukee county was paid for the work 6 you did in that case as well?</p> <p>7 A. No, Milwaukee County. And my office 8 doesn't actually see that money either. Very 9 frustrating.</p> <p>10 Q. Okay. What other cases have you worked 11 on with the Hale Law Group? And again, so that 12 shooting case was, again, on behalf of the police 13 officers who were accused of excessive force?</p> <p>14 A. Right.</p> <p>15 Q. In the first case, Robinson versus City 16 of Chicago, was when the officers were accused of 17 excessive force?</p> <p>18 A. When you say "accused of excessive 19 force." I mean, there was a lawsuit there. The 20 specific thing that was laid out against the 21 police, they may have said excessive, I don't 22 remember. I mean, that's not really what I'm 23 concerned with.</p> <p>24 Q. Okay.</p>
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<p>1 Q. How much was the office of the Milwaukee 2 examiner --</p> <p>3 A. We were paid something. I don't recall.</p> <p>4 Q. And did you work with Mr. Kamionski on 5 that case?</p> <p>6 A. I did.</p> <p>7 Q. What other cases have you worked with the 8 Hale Law Group on?</p> <p>9 A. I've not testified on anything else. I 10 can think of at least one shooting case that I 11 looked at. I think the issue there was a young guy 12 that got shot and, like, what position was he in 13 when he got shot. I don't think that ever led to 14 anything more than just looking at the case, 15 though.</p> <p>16 Q. You didn't give an expert opinion in that 17 case?</p> <p>18 A. I gave an opinion, but I don't think it 19 actually led to deposition or trial. Or at least 20 it hasn't.</p> <p>21 Q. Did you give an expert report in that 22 case?</p> <p>23 A. I don't remember if I wrote a report. I 24 did? Okay, I wrote a report.</p>	<p>1 A. I'm concerned with whether or not the 2 injuries are consistent with, you know, with the 3 plaintiff's story, I guess.</p> <p>4 Q. Well, what was your opinion with respect 5 to the shooting case and the position of the body?</p> <p>6 A. As I recall, this involved a -- 7 essentially a gunshot injury that had perforated an 8 arm and then went into the torso. So the question 9 was, what would have been the position of the arms 10 to make that all line up, is really what it came 11 down to. And, I mean, that was it, just how you 12 draw the line connecting A, B, C and D.</p> <p>13 Q. Okay. And did you say that the injuries 14 were consistent or inconsistent with some version 15 of events?</p> <p>16 A. Yes.</p> <p>17 Q. And they were consistent with the cops' 18 version of events?</p> <p>19 A. I don't remember whose -- who that 20 supported. But anatomically, it could only have 21 happened one way.</p> <p>22 Q. And what way was that?</p> <p>23 A. It seems to -- if I recall, he had to 24 have an arm up to make everything line up properly.</p>

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<p style="text-align: right;">130</p> <p>1 Q. I see.</p> <p>2 A. Yeah. I mean, flexed at the elbow.</p> <p>3 Q. And so therefore it was supporting the 4 position that his arm was -- somehow looked like it 5 was holding something like a gun?</p> <p>6 A. Again, that's kind of beyond what I'd be 7 concerned with. It's just that the arm would have 8 had to be in that position to make the gunshot 9 wound all line up.</p> <p>10 Q. So beyond the Robinson case you've 11 described, and this shooting case, what else have 12 you worked on with the Hale Law Group?</p> <p>13 A. You know, those are the ones that I can 14 recall off the top of my head. I didn't know you 15 were going to ask me. I won't look to him for the 16 answer here, but I think -- I know for sure those 17 are the ones that I can remember.</p> <p>18 Q. Okay. So what's the name of the shooting 19 case?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know if it was federal court or 22 state court?</p> <p>23 A. It's not on this list because I haven't 24 been deposed or been to trial for it.</p>	<p style="text-align: right;">132</p> <p>1 A. I don't think so. I'm kind of looking 2 through my list here. I don't think so.</p> <p>3 Q. How did it come to be that the Hale Law 4 Group first reached out to you to be an expert in a 5 case?</p> <p>6 A. Could have just been geographic 7 proximity. You know, they're in Chicago and I'm in 8 Milwaukee.</p> <p>9 Q. Bu do you know as you sit here today?</p> <p>10 A. No.</p> <p>11 Q. Has anyone from the law firm of Greenberg 12 & Traurig reached out to you?</p> <p>13 A. I don't think so.</p> <p>14 Q. Have you ever testified on behalf of the 15 City of Chicago before, or the Chicago police 16 department?</p> <p>17 A. I don't think so either.</p> <p>18 Q. Have you ever consulted or testified on 19 behalf of the City of Milwaukee involving a law 20 enforcement misconduct case?</p> <p>21 A. I know I've been to federal court -- 22 well, not -- put it this way. It was a federal 23 court case that involved police action in 24 Milwaukee. So I know I've done at least one. And</p>
<p style="text-align: right;">131</p> <p>1 Q. Is it still pending?</p> <p>2 A. That's a law question. I don't know.</p> <p>3 Q. Have you asked Mr. Kamionski what's going 4 on with that case?</p> <p>5 A. No. He generally tells me if he needs me 6 to do something.</p> <p>7 Q. I see.</p> <p>8 MS. MOGUL: Is it sill pending?</p> <p>9 MR. KAMIONSKI: Yes.</p> <p>10 THE WITNESS: There you go.</p> <p>11 MS. MOGUL: What's the name of that case?</p> <p>12 THE WITNESS: Good shortcut.</p> <p>13 MR. KAMIONSKI: It's Chapman.</p> <p>14 MS. MOGUL: Oh, I thought so. The one in 15 front of Gendelman right now.</p> <p>16 MR. KAMIONSKI: Yes.</p> <p>17 THE WITNESS: You're way ahead of me.</p> <p>18 MR. KAMIONSKI: She knows more about the 19 case than you do.</p> <p>20 THE WITNESS: Yeah, I guess so.</p> <p>21 BY MS. MOGUL:</p> <p>22 Q. So have you worked with any other 23 attorneys who are working on behalf of the City of 24 Chicago?</p>	<p style="text-align: right;">133</p> <p>1 that's probably still in here too.</p> <p>2 Q. And who called you to testify on that 3 case?</p> <p>4 A. This would have been a City of Milwaukee 5 attorney. I think that's the -- on the last page 6 there, Boone versus City of Milwaukee.</p> <p>7 Q. That was a shooting case?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you had met with the city 10 attorney prior to testifying in that case?</p> <p>11 A. Yes.</p> <p>12 Q. Did you give a deposition in that case?</p> <p>13 A. I think I did. For sure I was to trial a 14 couple different times. And I think I wrote, you 15 know, your basic Rule 26 report, 'cause it was 16 federal court. I don't recall if I was deposed.</p> <p>17 Q. In that case you didn't do the autopsy, 18 though, did you?</p> <p>19 A. No.</p> <p>20 Q. So beyond these two cases you've 21 mentioned that you've worked on with the Hale law 22 office, and the Boone case, are there any other 23 cases you've consulted or testified on behalf of 24 for defense counsel in a law enforcement misconduct</p>

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<p style="text-align: right;">134</p> <p>1 case?</p> <p>2 A. You know, I've testified on plenty of 3 these kind of cases, but not for -- not, say, for 4 one side or the other. In northern California, in 5 Contra Costa county, they used to do inquests for 6 anything that involved police action. So I'd be 7 subpoenaed to come to the inquest. But of course, 8 like anything that I do, I'm there to talk about my 9 autopsy findings. It's not really for one side or 10 the other. So that wouldn't be called by the 11 defense specifically, but it would be talking about 12 a case that involved death at police hands.</p> <p>13 Q. Right, but that was -- okay, that was an 14 inquest in general into the case?</p> <p>15 A. Right.</p> <p>16 Q. Okay, I get that. But so beyond that, 17 and the cases for Hale and the City of Milwaukee, 18 have you ever testified on behalf of defense 19 counsel, or the defendants, in a law enforcement 20 misconduct case?</p> <p>21 A. Yeah, off the top of my head, I don't 22 think so.</p> <p>23 Q. Have you ever testified on behalf of a 24 plaintiff in a civil rights case involving law</p>	<p style="text-align: right;">136</p> <p>1 Q. Okay. Junger? Is her name Junger?</p> <p>2 A. I think it is now, yeah.</p> <p>3 Q. Okay.</p> <p>4 A. Yeah. Junger or Youens, or something 5 like that.</p> <p>6 Q. So let me be clear. You're on the board 7 of the National Association of Medical Examiners?</p> <p>8 A. Right.</p> <p>9 Q. And Dr. Denton is on the board as well?</p> <p>10 A. He's also on the board, correct.</p> <p>11 Q. And how long have you been on the board 12 of the National Association of Medical Examiners?</p> <p>13 A. I think I am in my fourth year now.</p> <p>14 Q. How long has Dr. Denton been on that 15 board?</p> <p>16 A. I couldn't tell you. He was there before 17 I was.</p> <p>18 Q. And how often do you meet as a board?</p> <p>19 A. Twice a year.</p> <p>20 Q. So you see him at the board meetings 21 twice a year?</p> <p>22 A. If both of us are there. That doesn't 23 always happen.</p> <p>24 Q. When did you first meet Dr. Denton?</p>
<p style="text-align: right;">135</p> <p>1 enforcement misconduct?</p> <p>2 A. I don't think so. Might have. Again, 3 too many cases under the bridge.</p> <p>4 Q. But you can't remember any as you sit 5 here today?</p> <p>6 A. No.</p> <p>7 Q. Now, you reviewed materials that were the 8 autopsy and the report and the testimony of 9 Dr. Scott Denton in this case?</p> <p>10 A. I did.</p> <p>11 Q. Have you met Dr. Denton?</p> <p>12 A. Yes.</p> <p>13 Q. When have you met with him?</p> <p>14 A. He's been a colleague of mine -- put it 15 this way. I mentioned the National Association of 16 Medical Examiners? So he's been the treasurer for 17 the last three years or so. So he's a member of 18 the board. I'm also on the board, so -- and one of 19 the forensic fellows that we trained here three or 20 four ago went and became a partner of his in his 21 office practice.</p> <p>22 Q. And what's his name?</p> <p>23 A. Her name. I'll think of it in a minute.</p> <p>24 It changed 'cause she got married.</p>	<p style="text-align: right;">137</p> <p>1 A. Probably at one of those meetings. You 2 know, I'm thinking probably when I came to 3 Milwaukee. 'Cause when I came to Milwaukee is when 4 I started going to those meetings more, the main 5 meetings more. So probably, at that point, several 6 years ago.</p> <p>7 Q. So in 2007?</p> <p>8 A. Right. Or after.</p> <p>9 Q. So you've known Dr. Denton for close to 10 ten years?</p> <p>11 A. Something like that.</p> <p>12 Q. Would you say that you were friends?</p> <p>13 A. Oh, I mean, we've had dinner once. We 14 know each other to say hi to. We don't regular 15 associate. There's not an opportunity for that.</p> <p>16 Q. Have you ever consulted with him on any 17 of his autopsies?</p> <p>18 A. Consulted with him?</p> <p>19 Q. Yeah. Has he ever reached out to you to 20 talk to you about any of his autopsies?</p> <p>21 A. No.</p> <p>22 Q. Have you ever reached out to him to talk 23 to him about any of your autopsies?</p> <p>24 A. No.</p>

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<p style="text-align: right;">138</p> <p>1 Q. And both of you are still on the board of 2 the National Association of Medical Examiners?</p> <p>3 A. Yes.</p> <p>4 Q. Have you discussed this case with him?</p> <p>5 A. No.</p> <p>6 Q. Do you know any of the defendant officers 7 sued in this case?</p> <p>8 A. No.</p> <p>9 Q. So I'm going to -- do you know a Michael 10 Landando?</p> <p>11 A. No.</p> <p>12 Q. Anthony Noradin?</p> <p>13 A. No.</p> <p>14 Q. Robert Wells?</p> <p>15 A. Nope.</p> <p>16 Q. James Kelly?</p> <p>17 A. No.</p> <p>18 Q. James Day?</p> <p>19 A. No.</p> <p>20 Q. Demosthenes. How do you pronounce that?</p> <p>21 MR. FLYNN: Demosthenes.</p> <p>22 BY MS. MOGUL:</p> <p>23 Q. Demosthenes Balodimas?</p> <p>24 A. Nope.</p>	<p style="text-align: left;">140</p> <p>1 it. Yeah, that was the funny thing.</p> <p>2 Q. So in that instance, if it notes that 3 you -- that the consultation was for \$1,000, does 4 that mean that the -- that you spoke over the phone 5 with him for two hours?</p> <p>6 A. Sometimes -- sometimes it'll be time on 7 the phone plus prep. So I'm reading materials, 8 looking at materials, and so forth. So it's all 9 kind of wrapped into one.</p> <p>10 Q. Do you know, as you sit here today, back 11 in July of 2015, how long you were on the phone 12 with him talking about the case?</p> <p>13 A. No.</p> <p>14 Q. Does anyone review, in Milwaukee County, 15 any of the expert reports you do on its behalf?</p> <p>16 A. I mean, if it's a report that would be on 17 one of our cases that I've autopsied, say, for 18 example, then sure, it would be the attorney here. 19 But for something like an extramural consultation 20 like this, no, not that I know of. Sometimes I'll 21 show them to my colleagues just as a teaching 22 point. But that's not really a review, it's more 23 look how you write a report kind of thing.</p> <p>24 Q. So at this point, according to the</p>
<p style="text-align: right;">139</p> <p>1 Q. Robert Cardaro?</p> <p>2 A. No.</p> <p>3 Q. Robert Bartik?</p> <p>4 A. Nope.</p> <p>5 Q. Okay. You traveled back -- well, when 6 were you first contacted about this case?</p> <p>7 A. I'd have to go back and look at the 8 billing records on this case. But I'm thinking it 9 would have been last year at some point.</p> <p>10 Q. Okay. And where was that -- how was 11 that -- where did that meeting happen?</p> <p>12 A. It didn't start out as a meeting. I 13 mean, Mr. Kamionski e-mailed me, and then a lot of 14 my review was based on large, large documents and 15 photographs and stuff that I looked at via Dropbox.</p> <p>16 Q. Okay. And did you come up to Chicago to 17 speak about the case with Mr. Kamionski?</p> <p>18 A. I think I had planned on that one time 19 and it didn't happen. We ended up conducting our 20 conference over the phone. Much more convenient 21 than traveling down to Chicago.</p> <p>22 Q. You don't remember taking the train to 23 meet with him?</p> <p>24 A. I bought a train ticket and didn't use</p>	<p style="text-align: left;">141</p> <p>1 billing records I've seen, you've been paid about 2 \$9,000 for this case. Does that sound about right?</p> <p>3 A. The County of Milwaukee has been paid 4 about that much. That sounds right.</p> <p>5 Q. All right.</p> <p>6 MS. MOGUL: I'm going to take just 7 another quick break before we start into a new 8 area, okay?</p> <p>9 THE VIDEOGRAPHER: We are going off the 10 record at 11:36 a.m.</p> <p>11 (Break taken.)</p> <p>12 THE VIDEOGRAPHER: We are back on the 13 record at 11:45 a.m.</p> <p>14 BY MS. MOGUL:</p> <p>15 Q. So before the break we were talking about 16 that one of your fellows now works with Dr. Denton; 17 right?</p> <p>18 A. Right.</p> <p>19 Q. How long has that fellowship practice 20 been in place here, in your office?</p> <p>21 A. Oh, way before my time. A decade and a 22 half, perhaps.</p> <p>23 Q. And this one -- this is one fellow per 24 year?</p>

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<p>1 A. Right.</p> <p>2 Q. Okay. And in your office, do you hire</p> <p>3 outside pathologists to help conduct any of the</p> <p>4 autopsies for your office?</p> <p>5 A. No. I mean, we have permanent staff, and</p> <p>6 some of them have not -- have come from other</p> <p>7 places, as did I. But in terms of, say, locum</p> <p>8 tenens help or something, no.</p> <p>9 Q. Okay. Well, some -- like, for example,</p> <p>10 some counties, they don't have -- they contract</p> <p>11 with pathologists.</p> <p>12 A. Right.</p> <p>13 Q. You don't contract with pathologists</p> <p>14 here?</p> <p>15 A. No, but we provide that service.</p> <p>16 Q. Sure.</p> <p>17 A. So the other counties that we serve don't</p> <p>18 have their own.</p> <p>19 Q. Right. No, I understand. Okay. So in</p> <p>20 this case, you provided an expert report, right, or</p> <p>21 report of your opinions in this case; right?</p> <p>22 A. I did.</p> <p>23 Q. Okay. So you are looking at that right</p> <p>24 now?</p>	<p>1 vitae.</p> <p>2 Q. Okay. So let me just -- and so in its</p> <p>3 entirety, this is ten pages long?</p> <p>4 A. Yes, it is.</p> <p>5 Q. Okay. So -- and did you prepare this</p> <p>6 entire curriculum vitae, report, and summary of</p> <p>7 cases yourself?</p> <p>8 A. I did.</p> <p>9 Q. Okay. Did you have any help in preparing</p> <p>10 this report?</p> <p>11 A. No. We don't have administrative help</p> <p>12 here. I'm on my own.</p> <p>13 Q. Okay. So this report contains the</p> <p>14 opinions you intend to offer at trial if you're</p> <p>15 allowed to; right?</p> <p>16 A. Correct.</p> <p>17 Q. And all the facts and data you considered</p> <p>18 in forming these opinions is listed in this report?</p> <p>19 A. Those would be under the materials</p> <p>20 reviewed at the top of, I've got it as page 5 here.</p> <p>21 Q. Right. Were any of those documents not</p> <p>22 provided by defense counsel?</p> <p>23 A. No.</p> <p>24 Q. Did anyone else -- and I understand you</p>
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<p>1 A. I have it right here.</p> <p>2 Q. Is that your copy of the report?</p> <p>3 A. This is a copy. Looks like a photocopy.</p> <p>4 Q. Okay.</p> <p>5 A. It's a photocopy signature.</p> <p>6 Q. I'm going to label the one that -- a copy</p> <p>7 of the one I got, okay?</p> <p>8 MR. KAMIONSKI: We'll use that one.</p> <p>9 THE WITNESS: Whatever you like. You</p> <p>10 want this one?</p> <p>11 MS. MOGUL: Well, I might. Just leave it</p> <p>12 here for one second, 'cause there's one thing I</p> <p>13 want to check. All right. So this is 150.</p> <p>14 (Exhibit 150 marked for identification.)</p> <p>15 BY MS. MOGUL:</p> <p>16 Q. So I've labeled as Exhibit 150 the copy</p> <p>17 of the report and the affidavit -- I mean, your</p> <p>18 resumé, that you provided in this case. Does that</p> <p>19 look like the entirety of your report and your</p> <p>20 resumé?</p> <p>21 A. Actually, it's three different things.</p> <p>22 So it starts out with a list of trial testimony,</p> <p>23 kind of like the Rule 26 list; the next section is</p> <p>24 the report, then the final section is my curriculum</p>	<p>1 don't have administrative staff, but did anyone</p> <p>2 else contribute to this report?</p> <p>3 A. I mean, I discussed the report with</p> <p>4 Mr. Kamionski as I was crafting it, but nobody else</p> <p>5 here at the office, no.</p> <p>6 Q. Did anyone conduct any research for this</p> <p>7 report?</p> <p>8 A. No.</p> <p>9 Q. Did anyone help you review any materials?</p> <p>10 A. No.</p> <p>11 Q. Prepare summaries or abstracts?</p> <p>12 A. No.</p> <p>13 Q. Okay. Did you ask for any materials to</p> <p>14 help you in forming your opinions or drafting this</p> <p>15 report that were not provided to you?</p> <p>16 A. No.</p> <p>17 Q. So let me -- so in this report, starting</p> <p>18 on page 5 -- or strike that. In this exhibit,</p> <p>19 starting on page 5, that's the beginning of your</p> <p>20 report with respect to this case?</p> <p>21 A. It is.</p> <p>22 Q. Okay. And it starts out with materials</p> <p>23 reviewed?</p> <p>24 A. Yes.</p>

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<p>1 Q. Right. And so can you just go to the 2 bottom of the page? The last sentence reads, "He 3 also described bleeding hemorrhage within the 4 muscles over both shoulders and the muscles of the 5 right upper back; these represent recent injuries, 6 not" -- and then it stops.</p> <p>7 A. It sure does. That's bizarre. It looks 8 to me like that "not" doesn't need to be there. 9 "These represent recent injuries," period.</p> <p>10 Q. Okay.</p> <p>11 A. You can tell that I type this on my own.</p> <p>12 Q. So now if you're editing it, you would 13 just put "these represent recent injuries," period?</p> <p>14 A. Period, right.</p> <p>15 Q. Okay.</p> <p>16 MR. KAMIONSKI: It's weird, 'cause it 17 looks like there's a cutoff. I'm looking at this 18 version, and there's another sentence and a half.</p> <p>19 MS. MOGUL: Which version is this?</p> <p>20 MR. KAMIONSKI: I'm looking at the report 21 he brought.</p> <p>22 THE WITNESS: Could have been when it 23 printed. We've had printer server issues here, and 24 I had to print this at the office, obviously.</p>	<p>1 MS. MOGUL: All right.</p> <p>2 THE WITNESS: We're going to stop and 3 make a copy real quick?</p> <p>4 MS. MOGUL: I mean, we don't have to. As 5 long as I can keep it in my hands, I'll just keep 6 going.</p> <p>7 MR. KAMIONSKI: Okay, that's fine with 8 me.</p> <p>9 (Exhibit 151 marked for identification.)</p> <p>10 BY MS. MOGUL:</p> <p>11 Q. So on page 6 you define what's the 12 difference between cause and manner of death; 13 right?</p> <p>14 A. Right.</p> <p>15 Q. Cause of death is injury or disease that 16 sufficiently interrupts normal physiology so as to 17 be lethal; right?</p> <p>18 A. Yes.</p> <p>19 Q. You say that's best determined by an 20 autopsy examination.</p> <p>21 A. Yes.</p> <p>22 Q. What does an autopsy examination consist 23 of?</p> <p>24 A. Depending on the case, but a complete</p>
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<p>1 MS. MOGUL: Well, does the version you 2 have have this full thing? 'Cause the one you 3 provided me did not.</p> <p>4 MR. KAMIONSKI: I'm assuming that I 5 provided you -- I provided you whatever he sent me 6 on the spot, you know. So it could be that I do 7 have a version of that. It looks like it's in 8 error. I guess I should have reviewed that.</p> <p>9 MS. MOGUL: Well, this is substantially 10 more than -- well, I think we're going to have to 11 label this Exhibit 151. I'm going to need a copy 12 before I leave.</p> <p>13 MR. KAMIONSKI: Can we make a copy now? 14 Take a break and make a copy real quick?</p> <p>15 THE WITNESS: Sure.</p> <p>16 THE VIDEOGRAPHER: You want me to go off?</p> <p>17 MS. MOGUL: I mean, it's a significant 18 addition that I didn't get on this.</p> <p>19 MR. KAMIONSKI: It's -- you know, it was 20 not done anything intentionally. Like it wasn't -- 21 you know, so --</p> <p>22 MS. MOGUL: Okay.</p> <p>23 MR. KAMIONSKI: We'll make you a copy 24 right now so you can talk about it.</p>	<p>1 autopsy examination would be an external 2 examination of the body as received. Next step 3 would be to remove clothing, property, evidence of 4 medical therapy. Look at the nude body now, 5 perhaps followed by cleaning, if necessary, you 6 know, mud, dirt, that sort of thing. Blood.</p> <p>7 Once that's been done, the 8 photographs have been taken, then would come the 9 internal examination. So we do make a Y-shaped 10 incision to open the torso, and then an incision 11 across the back of the head connecting the ears, 12 reflect the scalp, remove the top of the skull, 13 remove the brain. I talked earlier about the neck 14 dissection. That would be a specialized dissection 15 that's not always necessary, but might be.</p> <p>16 So that's the internal exam.</p> <p>17 During that process, collect samples of the major 18 organs for microscopic examination as needed.</p> <p>19 Normally not needed, but we still collect. Collect 20 specimens for chemical and toxicologic examination.</p> <p>21 So the vitreous fluid in the eye, blood, liver, 22 urine, etcetera. Describe internally evidence of 23 natural disease, congenital anomaly, injury, and so 24 forth. Maybe an ancillary study, such as x-ray,</p>

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<p style="text-align: right;">150</p> <p>1 you know, depending on the case. Once all those 2 things are done, create the report, collect the 3 results of the ancillary studies. And at that 4 point you can come up with a cause and manner of 5 death. Sometimes you can do that at the time of 6 the autopsy. Sometimes you have to wait for other 7 studies. But that's the basic process.</p> <p>Q. Okay. But let me be clear. In terms of just the cause of death, is that based solely on the physical and pathological findings conducted from the autopsy?</p> <p>A. In general, it is. I mean, you have to look at the specific case. But in general, that's true.</p> <p>Q. Right. And -- okay. You described the neck dissection in cases involving manual strangulation; right?</p> <p>A. Right.</p> <p>Q. There was no neck dissection done in this case?</p> <p>A. Not -- not this kind that I was talking about, the layer-wise neck dissection.</p> <p>Q. Yes.</p> <p>A. Correct.</p>	<p style="text-align: right;">152</p> <p>1 you wouldn't call it manual strangulation, 'cause 2 there's not strap muscle hemorrhage. So it's kind 3 of circular, in that sense. But there was no such 4 evidence here.</p> <p>Q. Now, the manner of death describes how the cause arose, and it's typically determined via history and investigation; right?</p> <p>A. Correct.</p> <p>Q. And so that means it's usually determined by things other than the autopsy?</p> <p>A. That's correct.</p> <p>Q. Okay. And what do you mean by history and investigation?</p> <p>A. Well, that would be the investigation into the circumstances of somebody's death. You know, I can give you analogies to help explain it, but basically, one cause can arise lots of different ways. So, for example, we talked about homicide being death at the hands of another, suicide being death at one's own hands. Sometimes a gunshot wound is indeterminate; it could have worked out either way.</p> <p>So it would require looking into the circumstances to try to discern which of those</p>
<p style="text-align: right;">151</p> <p>Q. Did you think the layer-wise neck dissection should have been done in Jaqueri Dancy's death investigation?</p> <p>A. No.</p> <p>Q. Why is that?</p> <p>A. That would be for a case of manual strangulation. But in a case like this that actually had an external ligature furrow, I mean, that's the answer in terms of asphyxia.</p> <p>Q. So you don't think there was any reason to believe there was any manual strangulation involved in Jaqueri Dancy's death?</p> <p>A. No.</p> <p>Q. Or -- that would be correct?</p> <p>A. I'm not sure what you just added.</p> <p>Q. I don't -- I'm not going to lie, I'm not the best at asking questions, but in this case you don't believe there was any evidence to indicate any form of manual strangulation in Jaqueri Dancy's death?</p> <p>A. Correct. Manual strangulation is defined by strap muscle hemorrhage. So we often toy with that question, could you have manual strangulation without strap muscle hemorrhage. If that happens,</p>	<p style="text-align: right;">153</p> <p>1 is true. So there are times where the autopsy 2 pretty much speaks for itself; there's simply no 3 question about the manner of death. There are 4 other times where you need extra information that 5 doesn't come from the autopsy.</p> <p>Q. And where do you get this extra information with respect to history and investigation?</p> <p>A. Depends on where you work. At our office here, we have our own medicolegal death investigators on staff, so they're providing that to us. In some cases, we're looking at what they have to say, plus we're getting reports from, say, a state fire marshal, or the police, or the paramedics, EMTs, depending on who else has been involved in the case. Sometimes medical records, you know, hospital records, clinic records, that kind of thing.</p> <p>Q. But in terms of the investigation in terms of what happened, what events happened before someone's death, usually you get that from the police, whether it's through your medical investigators or directly from the police themselves?</p>

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<p style="text-align: right;">154</p> <p>1 A. Lot of times the police aren't even so 2 much involved. I mean, when 911 is activated in 3 Milwaukee, it's a police-fire response. And then 4 after they come and determine there's a deceased 5 person there, my office goes. Depending on the 6 kind of case, the police may have nothing further 7 to do except for perhaps controlling the scene, you 8 know.</p> <p>9 Q. Okay.</p> <p>10 A. Depends.</p> <p>11 Q. So -- okay. And back to your definition 12 of homicide. That just means death at the hands of 13 another?</p> <p>14 A. Right.</p> <p>15 Q. And as you said, it's out of your purview 16 to describe -- to determine whether there was a 17 crime committed or not?</p> <p>18 A. Right. You attorneys think about murder, 19 we just think about homicide.</p> <p>20 Q. Right. But just to be clear, there can 21 be -- you've had instances where you have defined 22 or labeled something as a death by -- that was a 23 homicide where in fact no crime was committed?</p> <p>24 A. Oh, sure. I mean, it works both ways.</p>	<p style="text-align: right;">156</p> <p>1 Q. You never attempted to reconstruct how 2 this may have occurred?</p> <p>3 A. Well, I mean, physically, no. Mentally, 4 yes.</p> <p>5 Q. Okay. But you never did any tests with 6 any elastic bands?</p> <p>7 A. No.</p> <p>8 Q. I want to get back to the terminology. 9 In this case, you have said that you believe this 10 case is more consistent with it being a homicide 11 because it's a strangulation versus an accident and 12 a hanging; right?</p> <p>13 A. That's a little bit interesting 14 combination of terminology. But yes, I believe 15 it's more consistent with somebody else being 16 involved as opposed to just this child being 17 involved.</p> <p>18 Q. So I just -- let me ask you to turn to 19 page 7 of your report. It just says, if you look 20 at your chart, autopsy finding, accident, and then 21 you put parentheses, hanging; right?</p> <p>22 A. I do.</p> <p>23 Q. And then you say homicide, parentheses, 24 strangulation.</p>
<p style="text-align: right;">155</p> <p>1 More often it's the other way. Say, for example, 2 somebody has cardiovascular vulnerability due to 3 preexisting disease, and there's shooting going on 4 outside their house, and they die at that point. 5 We would typically call that a homicide, because 6 the stress of that event caused them to die of the 7 natural disease that they already had.</p> <p>8 If you look at the way the FBI 9 defines homicide, they wouldn't include that. So 10 that would be an example of where we're calling it 11 a homicide, but the system isn't. Another type of 12 case might be, I don't know, somebody robs a 13 convenience store and shoots the clerk. We would 14 call that a homicide. That same robber now, 15 outside the convenience store, is confronted by the 16 police, tries to shoot the police, they shoot him; 17 we would also call that a homicide. But clearly 18 one of those is unlawful, one of those is lawful. 19 So it can go in both directions, but we're just 20 stuck using the same term.</p> <p>21 Q. Okay. Did you conduct any tests with 22 respect to Jaqueri Dancy's death?</p> <p>23 A. I only reviewed the written materials.</p> <p>24 There was no test to conduct, that I'm aware of.</p>	<p style="text-align: right;">157</p> <p>1 A. Right.</p> <p>2 Q. I guess what I'm trying to get at, isn't 3 it possible to have a strangulation that is, in 4 fact, an accident?</p> <p>5 A. It's all a matter of definition, isn't 6 it? Sure, if we think about strangulation as 7 involving specifically a ligature. Could somebody, 8 say, run into a room and become entrapped in 9 something across the door, something on that order, 10 or, as I mentioned earlier, the unfortunate death 11 of an infant getting trapped in the cord of a mini 12 blind, would be an example. I mean, it's hanging, 13 but I guess you could call that ligature 14 strangulation, sure. That would be an accident. 15 So again, depending very much on case 16 circumstances, sure it would.</p> <p>17 Q. Right. But in this case it seems like 18 you're saying hanging default means accident, 19 strangulation default means homicide.</p> <p>20 A. No, that's specifically within the 21 confines of this case. I'm just trying to make it 22 clear how I'm making those two different groups, 23 the accident group versus the homicide group. The 24 hanging group versus the strangulation group. It's</p>

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<p>1 just for the purpose of clarification in this case.</p> <p>2 Q. But is it possible to have a</p> <p>3 strangulation that is in fact not a homicide?</p> <p>4 A. Absolutely.</p> <p>5 Q. In this case, do you know what</p> <p>6 allegations the plaintiff's making against the</p> <p>7 defendants?</p> <p>8 A. My understanding was, was that initially</p> <p>9 the plaintiff, that would be -- let me just make</p> <p>10 sure I got this right here -- Ms. Harris, correct?</p> <p>11 Q. Yes.</p> <p>12 A. The plaintiff had confessed to murdering</p> <p>13 her son, and then later took it back. So just that</p> <p>14 much.</p> <p>15 Q. She took it back?</p> <p>16 A. Yeah, she said she didn't kill her son.</p> <p>17 Q. Okay. Were you told what the</p> <p>18 circumstances of her confession were?</p> <p>19 A. I might have been, but it would mean</p> <p>20 nothing to me. That's not my issue.</p> <p>21 Q. Okay. Why is it not your issue?</p> <p>22 A. Because my issue is my patient, in this</p> <p>23 case her son, and his injuries. That I can speak</p> <p>24 to professionally. In terms of what might have</p>	<p>1 elastic band?</p> <p>2 A. No, I think the -- as described by</p> <p>3 Dr. Denton and as photographed, the edge of the</p> <p>4 ligature furrow was quite consistent in pattern</p> <p>5 with the notched edge on that elastic band.</p> <p>6 Q. What part of -- okay, so did -- is it</p> <p>7 your opinion that the elastic band went around --</p> <p>8 what part of the elastic band went around Jaqueri's</p> <p>9 neck?</p> <p>10 A. I think based on there being a single</p> <p>11 furrow there, that matches pattern on a single</p> <p>12 band, a single throw, if you will, of ligature.</p> <p>13 Could there have been other throws around the neck?</p> <p>14 Sure, there could have. But the ligature pattern,</p> <p>15 just a single, well-defined furrow that vanishes</p> <p>16 behind the right ear, is consistent with pull being</p> <p>17 put on a single band from behind and to the right.</p> <p>18 Q. Okay. But -- okay. But just to be</p> <p>19 clear, you're not saying that the band wasn't</p> <p>20 wrapped around his neck more than that? You're</p> <p>21 just saying it's consistent with one?</p> <p>22 A. The pull being put on one. So, for</p> <p>23 example, if there were multiple wraps around the</p> <p>24 neck, and then just one of those pulled, that could</p>
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<p>1 happened to her and her confession, I can't.</p> <p>2 That's beyond my expertise.</p> <p>3 Q. Were you told what she confessed to?</p> <p>4 A. Again, my understanding was she confessed</p> <p>5 to strangling her son.</p> <p>6 Q. Right. Were you told how she confessed</p> <p>7 to strangling her son?</p> <p>8 A. I think it was with this same piece of</p> <p>9 elastic.</p> <p>10 Q. But besides using the piece of elastic,</p> <p>11 were you described how?</p> <p>12 A. I don't think so.</p> <p>13 Q. So you say Jaqueri was -- well, your</p> <p>14 opinion is that you believe -- well, how did</p> <p>15 Jaqueri die?</p> <p>16 A. From asphyxia.</p> <p>17 Q. And how -- beyond that, how did he die?</p> <p>18 A. Sure. My opinion is that he had this</p> <p>19 elastic band as a ligature around his neck, and</p> <p>20 that a single loop caused the furrow. The furrow</p> <p>21 was associated with pressure on his neck, and the</p> <p>22 pressure on his neck caused asphyxia.</p> <p>23 Q. And in this case, you don't dispute that</p> <p>24 the instrument of death in this case was the</p>	<p>1 give you the pattern. If there were one around the</p> <p>2 neck and that was pulled and then multiple were</p> <p>3 put, either of those could work. I couldn't say,</p> <p>4 based on the physical evidence, which could have</p> <p>5 happened. Either could have happened.</p> <p>6 Q. You said two things there.</p> <p>7 A. Right, I did.</p> <p>8 Q. You said that it could have been wrapped</p> <p>9 multiple times around his neck, and that there was</p> <p>10 a single pull.</p> <p>11 A. Maybe to make it more clear, it could</p> <p>12 have been wrapped several times around the neck</p> <p>13 antemortem, and then traction could have been put</p> <p>14 on one loop, and then that would have described</p> <p>15 what his dad described, multiple loops around the</p> <p>16 neck when he found him deceased.</p> <p>17 Alternately, there could have</p> <p>18 been one loop around the neck, traction placed on</p> <p>19 that one loop, and then other loops put around his</p> <p>20 neck after he was deceased. I would have no way at</p> <p>21 autopsy, or reviewing these materials, to tell you</p> <p>22 which one of those it must have been. Either one</p> <p>23 of them would have been fine.</p> <p>24 Q. Let me be -- I want to go through the</p>

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<p style="text-align: right;">162</p> <p>1 different scenarios. You're saying that one could 2 be that it was wrapped 360 degrees around his neck 3 and it was pulled? 4 A. By 360, if we're talking about one loop, 5 yes, pulled. 6 Q. So when we're saying one loop, let's 7 always assume that's 360 degrees. 8 A. Okay. 9 Q. Okay? 'Cause that's what you're saying; 10 right? 11 A. Well, yeah, with traction, one loop 12 pulled back here. Now, that didn't necessarily -- 13 that could have been a U shape around the neck, see 14 what I'm saying there? So like a loose -- loose -- 15 loose part on one end and the part that goes to the 16 bed in the other, and pulled U shape. So that 17 wouldn't be 360, but that would also account for 18 the physical finding of the partial furrow. 19 Q. Okay. So you're saying one way you -- he 20 could have died was the U-shaped? 21 A. Right. 22 Q. That someone -- and that would be someone 23 holding both ends of the string? 24 A. Yes.</p>	<p style="text-align: right;">164</p> <p>1 me whether he was killed by this U-shaped; right? 2 A. Right. I think that's not knowable. 3 Q. And you can't tell me whether it was 4 multiple times around the neck with one band being 5 pulled? 6 A. Right. Between those two, either would 7 account for the physical findings and the father's 8 findings. And they would both be consistent with 9 being fatal. 10 Q. Is there any other evidence you have to 11 indicate how Jaqueri died in this case? 12 A. Well, there were the soft findings, 13 again, the petechiae, the abrasions in the mouth, 14 the subcutaneous muscular hemorrhages on the back 15 that I think kind of add up to a scenario like you 16 see on my last page there. But in terms of if 17 you're talking about mechanism of death, I think we 18 pretty much narrowed it down to that furrow around 19 the neck. 20 Q. I'm sorry, can you repeat what you said 21 about the soft findings you had? 22 A. So hard finding versus soft finding, 23 okay? 24 Q. So tell me what a hard finding is.</p>
<p style="text-align: right;">163</p> <p>1 Q. You're saying another way he could have 2 died is that it was wrapped multiple times around 3 his neck, but only one of the -- 4 A. Loops. 5 Q. -- loops from the string was pulled? 6 A. Correct. 7 Q. Okay. And is there another option? 8 A. I think the other option would be either 9 of the two that -- or the first one that we 10 discussed, just the U shape around the neck, now 11 death has occurred, now other loops are put around 12 the neck. 13 Q. So the U shape and then it's multiple 14 times? 15 A. Right. 16 Q. Or it's multiple times and only one band 17 was wrapped? 18 A. Right. And just to be clear, what I'm 19 trying to put together here is the single discrete 20 furrow and the father's history that he found 21 multiple loops around the neck. So how do you put 22 those two things in the same box? And those are 23 the ways that I can think of doing it. 24 Q. But as you sit here today, you can't tell</p>	<p style="text-align: right;">165</p> <p>1 A. Sure. So the hard finding is a ligature 2 furrow, all right? That's pretty much 3 incontrovertible, and we know that's consistent 4 with the band. 5 Q. Right. Let me cut you off real quick so 6 we can be on the same page. So what you're saying, 7 there's a hard finding that the ligature furrow 8 that's demonstrated on the body indicates basically 9 with -- that this was -- the death was caused by 10 the elastic band? 11 A. By that ligature, sure. In other words, 12 if we found him someplace else with no ligature at 13 all, that furrow would still speak for itself. 14 Q. Okay. So that's a hard finding, meaning 15 -- okay, you have -- 16 A. Right. Maybe definitive is a better word 17 for that. 18 Q. It's a definitive finding. Okay. And 19 you're saying now there's soft findings. What do 20 you mean by that? 21 A. Right. So the abrasion inside the mouth, 22 the muscular hemorrhages under the skin of the back 23 in an active three-year-old could be explained 24 other ways, all right? Could you get injuries to</p>

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<p style="text-align: right;">166</p> <p>1 the inside of the mouth from any other mechanism 2 aside from, say, being pushed into the floor? 3 Sure. You know, could you bite the inside of your 4 mouth? You know, that childhood trauma kind of 5 stuff. So I would say those findings are 6 suggestive but not diagnostic, whereas the furrow 7 is diagnostic.</p> <p>Q. Okay. So in this case, the findings you made regarding the injuries in the back and shoulder muscles and the mouth are not diagnostic?</p> <p>A. They're not diagnostic. All they're doing for me is they're additive, okay? So when you take those in association with the furrow, in association with the petechiae, that's how I'm getting to homicide versus accident or suicide.</p> <p>Q. Bu you would agree that those injuries in the muscles could have been caused by accident?</p> <p>A. Sure. If they had been there by themselves, they probably wouldn't have even been noticed.</p> <p>Q. Okay. So in forming your opinions in this case, you relied on Dr. Denton's autopsy report and pictures; right?</p> <p>A. I did.</p>	<p style="text-align: right;">168</p> <p>1 on about manner of death in this case. I think at 2 first he viewed it as an accident, and then changed 3 to homicide. That wasn't so much an autopsy 4 finding, though.</p> <p>Q. Okay. Why wasn't that an autopsy finding?</p> <p>A. I mean, it's not an autopsy diagnosis specifically. I mean, the cause of death didn't change, but his view of the manner of death did.</p> <p>Q. And would you agree that he based his manner of death diagnosis solely on the confession he read in this case?</p> <p>A. I don't know. Yeah.</p> <p>Q. You didn't read that in the deposition?</p> <p>A. Well, again, I know what I read, but then what was actually going on in his head, I don't know.</p> <p>Q. Okay. Well, what did he say about it in his deposition?</p> <p>A. Well, clearly, I mean, he talked about having heard about the confession in his discussion with the police and so forth. I get that. But -- and that absolutely informs our opinion, you know. It's common knowledge in forensic pathology that</p>
<p style="text-align: right;">167</p> <p>Q. And you relied on copies of his Kodachromes; right?</p> <p>A. They were probably Ektachromes specifically, but I did.</p> <p>Q. Ektachromes?</p> <p>A. It's a slide film.</p> <p>Q. Got it. You also relied on Dr. Denton's deposition testimony?</p> <p>A. To a certain extent. I thought that he -- you know, there are times where -- there's only so much room in an autopsy report. So when you're being questioned, you have a chance to explain your opinion a little bit more fully. I saw nothing there that was inconsistent with what was in his autopsy report that was helpful in that regard.</p> <p>Q. Okay. Did you notice any times that his testimony changed in his deposition?</p> <p>A. You'd have to give me a specific example. I'm not sure.</p> <p>Q. Okay. Do you know whether he ever changed any of his opinions or findings in this case?</p> <p>A. I think there was some discussion early</p>	<p style="text-align: right;">169</p> <p>1 the autopsy is the autopsy, but other material can 2 be developed long after the autopsy. 3 So -- but what that process was 4 at the Cook County office and the staff that he 5 interacted with, you know, my impression was that 6 his impression and the staff's impression regarding 7 the manner was different at the outset. But again, 8 that's just how offices work too.</p> <p>Q. If any of his findings changed as regarding the physical or pathological evidence, would that concern you in this case?</p> <p>A. Depends. I mean, is it possible to miss something the first time? I guess that would be possible. And it may be that with my own trainees, I'll see things that they won't see simply because I have a lot more experience than they do. So it wouldn't necessarily be a matter of concern. It would depend specifically on what you're talking about.</p> <p>Q. Well, did you see any things in this case that Dr. Denton didn't see?</p> <p>A. Well, I didn't see this case in the sense that I wasn't in the room. And my policy, when I'm reviewing somebody else's autopsy, is that I'll</p>

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<p style="text-align: right;">170</p> <p>1 take their description of the physical findings 2 pretty much at face value, because they were there 3 and I wasn't. I may interpret those findings 4 differently, but those findings are pretty much all 5 that I can really go on.</p> <p>Q. Are you aware that he testified in the criminal proceeding in this case?</p> <p>8 A. I don't think I ever read criminal stuff 9 as I reviewed this case. All I had was his 10 deposition. So if there was criminal testimony, I 11 didn't have it.</p> <p>Q. Well, in this case he testified in October of 2005, a few months after he did his autopsy, regarding the findings he had in this case. Would you think that that testimony was more accurate because it was closer in time to the date of the autopsy itself?</p> <p>18 A. You know --</p> <p>19 MR. KAMIONSKI: Objection, calls for speculation.</p> <p>21 THE WITNESS: Yeah, I'd be speculating. 22 I can tell you my own practice. Closer temporally 23 is good, but by the same token, that's how we 24 create autopsy reports. As you've noticed today,</p>	<p style="text-align: right;">172</p> <p>1 Q. I mean, wouldn't you say that's pretty 2 standard for you to read your autopsy report before 3 you hit the stand in a criminal case?</p> <p>4 A. For me, it is.</p> <p>5 Q. So, you know, you provided some 6 speculation that ten years later you may be better 7 at testifying with respect to the accuracy of one's 8 autopsy examination versus closer in time. But 9 that's, again, speculation; right?</p> <p>10 A. Well, I mean, you asked me which way that 11 could go. And, you know, I have been -- I have 12 testified before where judges said you can't use 13 your autopsy report, you have to do it from memory 14 on the stand. Other times I've had my autopsy 15 report with me. So depending on the circumstances, 16 you can see how that would make a difference.</p> <p>Q. Sure. So let me -- well, in this case do you have any interest in reading his testimony from the trial?</p> <p>20 A. No, because I have his autopsy report, 21 and I'm basing my findings on his autopsy report, 22 and also on the father's history who found his son 23 deceased. So his trial testimony, I don't think, 24 would particularly be helpful.</p>
<p style="text-align: right;">171</p> <p>1 we've done a lot of cases; you can't bring 2 everything back to mind, especially when cases have 3 happened years ago. Reading one's own autopsy 4 report or somebody else's is very helpful for that 5 reason. So maybe, maybe not.</p> <p>6 You know, could you misstate 7 something at testimony close to the autopsy? You 8 bet. You know, could I make a mistake? Sure I 9 have. Can you get it better later on after reading 10 through your report? Sure you could. So I could 11 see it happening either way.</p> <p>12 BY MS. MOGUL:</p> <p>Q. But you don't think he read his report prior to testifying in a criminal case?</p> <p>15 A. I can't speak --</p> <p>16 MR. KAMIONSKI: Objection, calls for speculation, argumentative.</p> <p>18 THE WITNESS: Yeah, I can't speak for 19 him.</p> <p>20 BY MS. MOGUL:</p> <p>Q. So let me ask you this. Before you testify in a criminal case, do you read your autopsy report?</p> <p>24 A. I do.</p>	<p style="text-align: right;">173</p> <p>1 Q. Okay. But in this case, you in fact did rely on Dr. Denton's testimony from his deposition in formulating your opinion?</p> <p>4 A. I think my opinion would have been the same thing just based on the autopsy report. As I said, his deposition simply buttressed or reinforced that. I didn't change anything after reading his deposition.</p> <p>9 Q. So you read the deposition of Stefan Dancy?</p> <p>11 A. I did.</p> <p>12 Q. And what specifically did you rely on with respect to Stefan Dancy's testimony?</p> <p>14 A. He talked about the multiple loops around the neck. And that stood out in my mind because there was a single ligature furrow. So that was something that I had to work through in my own head in terms of explaining how this would have happened.</p> <p>20 Q. Did you describe how that would happen in your opinion?</p> <p>22 A. Oh, well, at the end there, I'm talking about single versus a non-complex furrow.</p> <p>24 Q. Right.</p>

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<p style="text-align: right;">174</p> <p>1 A. And under point number two on page 6, I 2 go into some discussion about that. But I can't be 3 specific. And you know that because of the 4 questions that we just went through. Could it have 5 been multiple loops at the beginning, one loop, 6 multiple loops after. Any of those could have been 7 true. So because I don't have a specific way that 8 it must have happened, I'd just as soon do like 9 this, you know, talk about it while being asked.</p> <p>10 Q. Okay. But so you relied on the father's 11 testimony as to the circumstances in which he found 12 Jaqueri --</p> <p>13 A. Right.</p> <p>14 Q. -- with the multiple loops of the elastic 15 band around his neck?</p> <p>16 A. Correct.</p> <p>17 Q. And did you believe -- did you -- I mean, 18 do you believe that his testimony with respect to 19 the way he found Jaqueri was accurate?</p> <p>20 A. Well, he was certainly consistent in that 21 regard, so -- both at trial and in deposition, he 22 was consistent about the multiple loops, even down 23 to I couldn't get my finger beneath them. And I 24 thought that would have been a funny thing to, I</p>	<p style="text-align: right;">176</p> <p>1 A. I think it helped me to understand where 2 that elastic band came from. Because when I first 3 looked at this case, I heard sheet, not elastic 4 band. And it didn't quite make sense with the 5 single discrete furrow. So having heard that 6 testimony, now I got it, where why is there even 7 elastic band around. So that made sense. But 8 that's about as far as it went. I mean, ultimately 9 the physical finding was the physical finding.</p> <p>10 Q. Was it instructive to you that this child 11 had previously wrapped this elastic band around his 12 own neck before?</p> <p>13 A. No, because he didn't die before, did he?</p> <p>14 Q. But the fact that the child had 15 previously played with his elastic band before, and 16 wrapped it around his own neck, wouldn't that lead 17 to a possibility that he could have done this to 18 himself?</p> <p>19 A. Well, in other words, could this have 20 been a hanging accident. That's, I think, what I 21 address with the rest of my report. And for 22 reasons that we've pretty much gone through, I 23 think it's more consistent with death at the hands 24 of another. You know, hypothetically, is that</p>
<p style="text-align: right;">175</p> <p>1 don't know, probably make up is too strong a word, 2 to misremember. So I thought that was -- that was 3 likely accurate. I think, again, if you look at my 4 point number two, though, I think I can explain how 5 that's possible, physically possible. And that 6 was -- that was basically my job.</p> <p>7 Q. Anything else in his testimony other than 8 how he found Jaqueri?</p> <p>9 A. No, just -- again, when you say how he 10 found, there were a couple issues there. One is 11 multiple loops, the other is the tightness.</p> <p>12 Q. Okay. Was the fact -- and you read his 13 trial testimony, and Mr. Dancy testified during the 14 trial that he had, prior to this incident, seen 15 Jaqueri play with the elastic band from the bed 16 sheet.</p> <p>17 A. Right.</p> <p>18 Q. And he had seen him put it in his mouth 19 and roll on the bed and have it roll -- wrapped 20 around his neck?</p> <p>21 A. I think he even talked about disciplining 22 him after that.</p> <p>23 Q. Right. Did that in any way influence 24 your opinion in this case?</p>	<p style="text-align: right;">177</p> <p>1 possible? I just can't make the physics work. 2 That's the problem.</p> <p>3 Q. And how can't you make the physics work?</p> <p>4 A. Well, think about it. If it were just 5 the U shape around the neck, you couldn't put 6 enough traction by yourself. If it were multiple 7 loops around the neck and you had enough traction, 8 you should have a complex furrow. It just doesn't 9 work. It just doesn't work by physics.</p> <p>10 Q. What did you rely on with respect to 11 Jaqueri Dancy's medical records from Our Lady of 12 Resurrection?</p> <p>13 A. Rely, not so much. They did mention in 14 the emergency department record that it was a 15 partial furrow around the neck, and that was 16 consistent with what Dr. Denton had described. So 17 again, it more buttressed my opinion there. It 18 corroborated it.</p> <p>19 Q. Okay. One of your opinions in this case 20 is that you believe that this is a homicide -- 21 well, okay, in -- strike that. You say that you 22 believe this is more consistent with a homicide, 23 meaning it was more at the hands of another, based 24 on various findings you made in your opinion;</p>

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<p>1 right?</p> <p>2 A. That's correct.</p> <p>3 Q. And I'll get to those findings. But in</p> <p>4 this case, who was -- who was the hand of the other</p> <p>5 in this case?</p> <p>6 A. I have no way to tell you that from</p> <p>7 autopsy.</p> <p>8 Q. Okay. And can you tell us whether this</p> <p>9 was a crime or not?</p> <p>10 A. Well, I mean, I don't have an expert</p> <p>11 opinion there; I'm not an attorney. But to say</p> <p>12 that somebody else was involved in the</p> <p>13 strangulation death of a young boy, that pretty</p> <p>14 much sounds like a crime to a layperson with</p> <p>15 respect to the law.</p> <p>16 Q. Okay. If it was by another child, would</p> <p>17 it be?</p> <p>18 A. Oh, sure. I mean, there may not be</p> <p>19 culpability there, but it's still death at the</p> <p>20 hands of another. Beyond that, it's not mine to</p> <p>21 decide.</p> <p>22 Q. In this case, you have no idea who may</p> <p>23 have -- if it was done by another, you have no idea</p> <p>24 who would have done it?</p>	<p>178</p> <p>1 A. What I can tell you for sure is that the</p> <p>2 pull came from behind him, and I think slightly to</p> <p>3 his right, based on where the gap was. But whether</p> <p>4 he was face down, which would account for the</p> <p>5 mucosal abrasions and the back injuries, whether he</p> <p>6 was against a wall, whether he was standing up,</p> <p>7 that I can't say. I think there's no physical</p> <p>8 evidence one way or the other.</p> <p>9 Q. Can you tell us how long it took for</p> <p>10 Jaqueri to die?</p> <p>11 A. No, I think that's variable and very</p> <p>12 individual. I think it was probably -- it wasn't</p> <p>13 instant, in the sense that there were good</p> <p>14 petechiae, and that takes some time to form. But,</p> <p>15 you know, how many minutes, say, I think it's not</p> <p>16 knowable.</p> <p>17 Q. Isn't it fair to say that there's some</p> <p>18 degree of speculation you are making in trying to</p> <p>19 determine the actual way that he died?</p> <p>20 A. I wouldn't use the term speculation. I</p> <p>21 would say that there is reasonable uncertainty as</p> <p>22 to some of the specifics, as we just talked about</p> <p>23 position, for example. I think that's probably</p> <p>24 less important than the fact that I believe this</p>
<p>179</p> <p>1 A. Well, let's just say, based on the whole</p> <p>2 circumstances of the case, I have an idea. But I</p> <p>3 have no evidence from autopsy to tell me who must</p> <p>4 have done this.</p> <p>5 Q. Okay. And -- okay. So you've described</p> <p>6 how you believe the ligature was around Jaqueri's</p> <p>7 neck, okay?</p> <p>8 A. I've explained how pressure was put on</p> <p>9 the neck.</p> <p>10 Q. Right.</p> <p>11 A. And I've explained different ways it</p> <p>12 could have been around the neck to end up the way</p> <p>13 his father found it. I'm not definitive on how it</p> <p>14 must have been.</p> <p>15 Q. Right. So in fact you can't tell us how</p> <p>16 precisely Jaqueri died?</p> <p>17 A. How he died. Well, I can in the sense</p> <p>18 that he died as traction was being placed on a</p> <p>19 single loop around his neck by another person.</p> <p>20 What I can't tell you is, at that moment, were</p> <p>21 there multiple loops around his neck or were those</p> <p>22 put on later. That I can't do.</p> <p>23 Q. What position was Jaqueri in when this</p> <p>24 happened?</p>	<p>181</p> <p>1 was done by somebody else. So the exact position</p> <p>2 probably isn't a big deal in that regard.</p> <p>3 But I think some of those things</p> <p>4 are not knowable. I can tell you consistent with</p> <p>5 or not consistent with. In my world, I don't call</p> <p>6 that speculation, though, it's just looking at the</p> <p>7 same set of facts and saying this could be</p> <p>8 possible, that could be possible.</p> <p>9 Q. Okay. So one of the things you're saying</p> <p>10 is that you believe that this is -- that Jaqueri's</p> <p>11 death was consistent by another individual based on</p> <p>12 the angle of the ligature impression found on</p> <p>13 Jaqueri's neck?</p> <p>14 A. That is one factor, sure.</p> <p>15 Q. Okay. And in doing that, you're relying</p> <p>16 on a conclusion that Dr. Denton made in his</p> <p>17 deposition where he said, "I would say the only</p> <p>18 thing that could indicate a homicide would be the</p> <p>19 nature of the ligature that was horizontal, because</p> <p>20 that is inconsistent, basically, with a hanging";</p> <p>21 right?</p> <p>22 A. No, I'm actually relying on the autopsy</p> <p>23 report, where he gives specific measurements. And</p> <p>24 based on those specific measurements as a near</p>

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<p>1 horizontal furrow, he reaches a conclusion that he 2 states in his deposition. But had I not even had 3 that deposition, I'd be reaching the same 4 conclusion based on his measurements.</p> <p>5 Q. But to be clear in terms of your opinion, 6 you in fact quoted Dr. Denton with respect to that 7 finding?</p> <p>8 A. Oh, sure, just to point out that we 9 agreed.</p> <p>10 Q. Okay. So in this case, is it your belief 11 that this -- this ligature impression was 12 horizontal?</p> <p>13 A. It's not precisely. It's near 14 horizontal. It certainly isn't canted upward like 15 you see in a typical hanging.</p> <p>16 Q. So -- all right. So there is an angle to 17 the ligature impression?</p> <p>18 A. Right. It's a small one, though. We've 19 got 7.5 inches below the top of the head of the 20 left ear, seven in the anterior midline, seven by 21 the right ear. So generally with a hanging, with 22 any kind of -- any degree of suspension at all, 23 it's much more pronounced than that, and it's 24 uniform.</p>	<p>1 A. Sure.</p> <p>2 Q. Did you also read in the deposition --</p> <p>3 MR. KAMIONSKI: Let --</p> <p>4 BY MS. MOGUL:</p> <p>5 Q. Did you also read in the deposition where 6 Dr. Denton said that based on the autopsy findings 7 alone, he could not -- he would say the cause of 8 death was undetermined?</p> <p>9 A. No, he -- you're misquoting. He said the 10 manner of death.</p> <p>11 Q. I'm sorry, you're right. I agree. So 12 you read in the deposition where Dr. Denton said 13 that the manner of death was undetermined based on 14 the autopsy findings alone?</p> <p>15 A. Again, if you show me that specific line, 16 at that point I would say that we disagree. Yeah, 17 I would say it's more consistent with homicide. I 18 would not call it undetermined.</p> <p>19 Q. Okay.</p> <p>20 MR. KAMIONSKI: How much left on the 21 tape?</p> <p>22 THE VIDEOGRAPHER: I'm sorry?</p> <p>23 MR. KAMIONSKI: How much time left on the 24 tape?</p>
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<p>1 Q. Okay. But there was a slight degree -- 2 there was a slight angle to this impression?</p> <p>3 A. There was. Very slight.</p> <p>4 Q. You know -- in terms of this case, 5 though, with respect to Jaqueri Dancy's death, you 6 also cannot tell us whether it was one person 7 involved or more than one person?</p> <p>8 A. All I can describe is his injuries. If 9 somebody were pulling the cord, and somebody else 10 was holding him down, there's no physical findings 11 to support that or to refute it.</p> <p>12 Q. Okay. So you can't say one way or 13 another whether it was one, two, or more people?</p> <p>14 A. Right. I think it's not sayable. Not 15 from the autopsy, anyway.</p> <p>16 Q. Let me be clear. Dr. Denton, in his 17 deposition, made it clear that he did not believe 18 the physical or pathological evidence said with 19 certainty whether this was an accident or homicide.</p> <p>20 Do you agree with that?</p> <p>21 A. Well, again, if you look at what I quoted 22 here --</p> <p>23 Q. Right, you quoted one sentence out of a 24 200-page deposition.</p>	<p>1 THE VIDEOGRAPHER: 14 minutes on this 2 disc.</p> <p>3 MR. KAMIONSKI: Okay. Just waiting for 4 the bathroom break time.</p> <p>5 THE WITNESS: Those \$0.65 soft drinks.</p> <p>6 You said it was going to happen.</p> <p>7 MS. MOGUL: Go ahead, take the break now.</p> <p>8 MR. KAMIONSKI: Thank you.</p> <p>9 THE VIDEOGRAPHER: This ends disc number 10 two of the video deposition of Brian L. Peterson, 11 M.D., on March 11, 2016. The time, 12:34 p.m. 12 (Break taken.)</p> <p>13 THE VIDEOGRAPHER: This is the beginning 14 of disc number three of the video deposition of 15 Brian L. Peterson, M.D., on March 11, 2016. The 16 time, 12:42 p.m.</p> <p>17 BY MS. MOGUL:</p> <p>18 Q. So Dr. Denton testified at his 19 deposition, he was asked this question: "And I 20 guess what I want to be clear about is there was no 21 physical or pathological evidence that indicated 22 that Jaqueri's death was not accidental at the time 23 you completed this autopsy? ANSWER: That's fair."</p> <p>24 So in essence he's saying that he</p>

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<p style="text-align: right;">186</p> <p>1 doesn't believe the physical or pathological 2 findings indicate that this was a homicide over an 3 accident. Are you saying you disagree with that, 4 with his conclusion in this case?</p> <p>5 A. I don't think that was his conclusion, 6 that was his answer to that question. And we know 7 that later on, he pointed out a lot of factors that 8 would be consistent with homicide that I agree 9 with. So --</p> <p>10 Q. What other factors -- so what factors did 11 he indicate?</p> <p>12 A. Well, I had them listed in my report.</p> <p>13 Q. Okay. Please --</p> <p>14 A. So that being the case, I think it 15 depends on timing and when the question is asked 16 and the flow of things. You know, if I were to ask 17 Dr. Denton, which I haven't, today, what he thinks 18 about this case, he might have something different 19 to say; he may not, you know. My point is, is that 20 by looking at these different physical factors from 21 the autopsy, I think they point to homicide.</p> <p>22 I think looking at the individual 23 factors, at least a couple of them, Dr. Denton 24 would agree with that. We can go to point number</p>	<p style="text-align: right;">188</p> <p>1 those questions during this -- this deposition? 2 A. I don't -- I don't recall.</p> <p>3 Q. Okay. So he was asked this question: 4 "QUESTION: Right. So based on the autopsy 5 findings, if you had to base it just on the autopsy 6 findings alone, would you say the manner of death 7 would be undetermined? ANSWER: Right. Like the 8 body in a vacuum or the body without any 9 circumstances? QUESTION: Yes. I would say by 10 default it's undetermined." That's Dr. Denton's 11 testimony at his deposition.</p> <p>12 A. Dr. Denton -- yeah, I understand.</p> <p>13 Q. Okay. You're saying you disagree with 14 his finding or his testimony in that instance?</p> <p>15 A. Again, yes, in the sense he's being asked 16 a very specific question there, and that really is, 17 is it possible to form an opinion based on an 18 autopsy in a vacuum. I mentioned that very issue 19 to Mr. Kamionski when we started out this 20 consultation. So that whole issue of trying to 21 perform an autopsy with no information at all is a 22 pressing issue in forensic science.</p> <p>23 To his answer there, I think he's 24 answering that specific question. So that's a</p>
<p style="text-align: right;">187</p> <p>1 one, that would be the horizontal nature of the 2 furrow. We could point to -- we could look at 3 point number two, the fact that it was consistent 4 with the single loop theory. And we could look at 5 point number four there, the fact that there were 6 more petechiae.</p> <p>7 Where that all adds up to in 8 Dr. Denton's head as of this day, I don't know. I 9 can tell you where it is in mine, though, and 10 that's obviously homicide.</p> <p>11 Q. So in terms of the deposition, though, 12 you're saying that his answers changed depending on 13 the question that was asked?</p> <p>14 A. I don't know. You're reading me one 15 excerpt from what you said was a couple 16 hundred-page deposition. And I know how 17 depositions go, and it depends on the specific 18 question you're asked. That one referred to at the 19 time of the autopsy. Maybe if it had been said 20 well, once all was said and done, you considered 21 all the facts, would your opinion have changed. I 22 don't know if he was ever even asked that. So 23 depends.</p> <p>24 Q. But you don't recall him being asked</p>	<p style="text-align: right;">189</p> <p>1 different question than what's your opinion of this 2 case overall. And obviously we have to take things 3 like history into account.</p> <p>4 Q. Okay. So, I'm sorry, you said you asked 5 Dr. Kam -- or strike that. Not doctor.</p> <p>6 A. Congratulations.</p> <p>7 Q. You asked Mr. Kamionski at the outset of 8 this case about whether you could just look at the 9 body alone to make a determination as to manner of 10 death?</p> <p>11 A. What I was mentioning was, to him, that, 12 as I said in my report, cause of death generally 13 derives from the autopsy; manner of death relies a 14 lot on history and investigation. My whole point 15 was the current issue of cognitive bias in forensic 16 science, and that you can't really apply that to 17 forensic pathology, because just as clinicians need 18 a physical and history, we need history in the 19 autopsy examination. That's the point that I'm 20 making.</p> <p>21 Q. So what did you -- in making your 22 determinations that this was a homicide versus an 23 accident, what beyond the autopsy findings did you 24 use to making your determination?</p>

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<p>1 A. Oh, as best I can tell from the history, 2 this child was found on the floor, with the 3 ligature still attached up to the bed. That would 4 be consistent with a canted furrow, which he didn't 5 have. And then we have the multiple loops that 6 we've already talked about. So those are the 7 things from the history and the investigation that 8 I took into account.</p> <p>9 Q. Okay. So let me be clear. Beyond the 10 picture of where Mr. Dancy believed that Jaqueri 11 was found in relation to the bed, right, is there 12 any other findings or any other evidence you relied 13 on in coming up with your opinions beyond the 14 autopsy and the pictures of the autopsy 15 examination?</p> <p>16 A. Well, autopsy, autopsy pictures, and then 17 his description of how he found his son and where 18 that cord was attached to.</p> <p>19 Q. Okay. But how he found his son and how 20 his cord was attached to him, how does that -- how 21 did that influence your determination as to manner 22 of death?</p> <p>23 A. Oh, just that if -- if it had been -- if 24 you accepted that at face value, then it should</p>	<p>1 dying; right?</p> <p>2 A. That would be -- that would be like 3 asking can you strangle yourself. You can't. 4 So -- you can't maintain pressure to the point of 5 death on yourself. So physically, because that 6 thing, the cord, is only attached to one end, you 7 just can't do it. I mean, if you were to maybe 8 wind around and around and around and then fall 9 down, you're still going to produce a canted furrow 10 and a complex furrow. He didn't have either. So 11 it just doesn't fit.</p> <p>12 Q. But why in this case do you believe that 13 it would have to have multiple furrows?</p> <p>14 A. Well, his father describes multiple loops 15 around the neck.</p> <p>16 Q. But in this case, didn't he --</p> <p>17 A. If those multiple loops had all been 18 under tension, there would have been a complex 19 furrow. That's how it works, okay? How do I know 20 that? Because I've taken lots of complex ligatures 21 off the neck, so you have a complex furrow. As I 22 pointed out, either pinch points in between loops 23 or multiple loops impressed on the skin. He had a 24 single, well-defined furrow with a gap at the back.</p>
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<p>1 have been a canted furrow. And also, if you 2 accepted that at face value, you have a real issue 3 with there being a single furrow and not multiple. 4 That was simply inconsistent. So the question is, 5 how do you explain those inconsistencies. And I 6 believe the best explanation is, there are other 7 things in operation here. Those other things are 8 somebody else who actually did the killing, see.</p> <p>9 Q. You keep saying canted furrow.</p> <p>10 A. Yeah.</p> <p>11 Q. What does that mean?</p> <p>12 A. Slanted. Canted upwards.</p> <p>13 Q. Okay, I got it.</p> <p>14 A. So if we accept this all at face value, 15 the point of suspension was up there at the top of 16 the bunk bed, he's down below and a little bit of a 17 distance from the bunk bed. So if that were all 18 true, and it was just an accidental death, that 19 furrow should have been angled upwards towards the 20 point of suspension, and it wasn't.</p> <p>21 Q. But in this case, the cord was wrapped 22 around his neck in such a manner that it cut off 23 circulation and started to lead to him being -- it 24 could have led to him being unconscious before</p>	<p>1 That's simply not consistent with pressure being 2 applied to multiple loops. Can't work.</p> <p>3 Q. In this case, it's your -- is it your 4 belief that -- well, in this case, you can't tell 5 us whether the elastic band was wrapped multiple 6 times around Jaqueri's neck or only partially 7 around his neck, causing -- leading to his death?</p> <p>8 A. Two separate questions. Was it wrapped 9 multiple times around the neck? I think it was, 10 based on his dad's testimony.</p> <p>11 Q. Right.</p> <p>12 A. There was no physical evidence of that, 13 in that there was only a single ligature furrow. 14 But that's what his father said a couple different 15 times, and in great detail. So -- so that much I 16 get from -- from his testimony. When you say 17 causing death, that gets us back to my original 18 point, tension on one loop must have caused death. 19 Whether there was more than one loop at that time, 20 or loops added later, I think it's not knowable 21 based on the physical evidence.</p> <p>22 Q. In this case, do you believe that the 23 ligature made an impression on the right side of 24 Jaqueri's neck?</p>

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<p style="text-align: right;">194</p> <p>1 A. Partially. I mean, there was a gap, all 2 right? So it was partially on the right side, up 3 to about the point of the external auditory meatus. 4 But once you got past that, there was a gap.</p> <p>5 Q. Where did the gap begin on the other 6 side?</p> <p>7 A. I think it was near the occiput.</p> <p>8 Q. Which is what?</p> <p>9 A. I'm sorry. The back bone in the head 10 there.</p> <p>11 Q. Okay. So there was a gap between the 12 right ear and the --</p> <p>13 A. And the posterior midline, put it that 14 way. I think in the emergency room they said about 15 60 percent. So maybe even a little more of a gap 16 across the back there. And again, that would be 17 consistent with that U shape we talked about too.</p> <p>18 Q. You're aware of the testimony that the 19 father gave that when he found Jaqueri, the elastic 20 band was wrapped multiple times around his neck; 21 right?</p> <p>22 A. I am.</p> <p>23 Q. And that it was so many times and so 24 tight that he couldn't find a loose end of the</p>	<p style="text-align: right;">196</p> <p>1 it. So that fits perfectly.</p> <p>2 Q. Agreed. In this case, though, there was 3 in fact an indication that the elastic band was 4 wrapped around the right side of Jaqueri's neck 5 even though there was no marked furrow.</p> <p>6 A. Certainly the elastic band touched the 7 right -- when you said wrapped around, you can't 8 really wrap around one side. There was certainly 9 contact.</p> <p>10 Q. There was contact on the right side of 11 the neck?</p> <p>12 A. Right.</p> <p>13 Q. And there was contact on the left side of 14 the neck?</p> <p>15 A. Right.</p> <p>16 Q. There's only a little gap of the lack of 17 a pale impression or a dark furrow on a little 18 portion behind the neck?</p> <p>19 A. Well, if you believe the emergency room, 20 40 percent. If you believe Dr. Denton, he measured 21 a little bit. But there was most certainly a gap.</p> <p>22 Q. Did the emergency room look for a pale 23 impression?</p> <p>24 A. Pale impression. They just said they saw</p>
<p style="text-align: right;">195</p> <p>1 string?</p> <p>2 A. Right.</p> <p>3 Q. And that he had to completely unwrap it 4 in order to find the loose end of the string?</p> <p>5 A. Yes.</p> <p>6 Q. And you credit that testimony?</p> <p>7 A. I do.</p> <p>8 Q. Now, in this case you're also aware that 9 Dr. Denton said that the mark made -- so in this 10 case, to be clear, there was, on the left side of 11 his neck, a patterned dark furrow; right?</p> <p>12 A. There was a dark furrow that had one edge 13 that matched the pattern of the elastic band.</p> <p>14 Q. But on the right side of his neck there 15 wasn't the dark furrow, but there was a pale 16 impression that one could see.</p> <p>17 A. Exactly.</p> <p>18 Q. Right. It wasn't in fact that furrow, 19 though, was it?</p> <p>20 A. Right. But that's how we know that it 21 was pulled this way. Because when you think about 22 it, if you've got that U shape, and you're pulling, 23 where's the biggest pressure -- where's the most 24 pressure in the pattern going to be? Opposite to</p>	<p style="text-align: right;">197</p> <p>1 something on about 60 percent of the neck. I don't 2 think they used the term "pale impression."</p> <p>3 Q. But Dr. Denton in fact used the term 4 "pale impression."</p> <p>5 A. Sure. He's a forensic pathologist.</p> <p>6 Q. Right. And he said he found a pale 7 impression on the right side of the neck.</p> <p>8 A. Right.</p> <p>9 Q. And all I'm getting at is that indicated 10 that the ligature was touching the right side of 11 Jaqueri's neck, but it didn't have that patterned 12 furrow that the hospital noted that was 60 percent 13 around the neck.</p> <p>14 A. Well, the patterned -- the pattern was 15 something that Dr. Denton described and 16 photographed that was consistent with the edge on 17 that elastic.</p> <p>18 Q. Right.</p> <p>19 A. The way elastic is, I wouldn't 20 necessarily expect to see that uniformly around the 21 whole neck. So the fact that there was a pale 22 furrow on the right and not that pattern, I'm fine 23 with that. To me, all that indicates is that there 24 was contact on those portions of the neck.</p>

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<p style="text-align: right;">198</p> <p>1 As I said, that would be quite 2 consistent with that U shape being pulled, or being 3 pulled. It would also be consistent with that 4 being pulled with other loops looser around the 5 neck. What I can say for sure is there was only 6 physical evidence on the neck of pressure on one 7 loop. If it had all been wrapped tight, it would 8 have been a complex, or multiple, furrow.</p> <p>9 Q. Well -- okay. I just want to get back to 10 this, though. The dark furrow, right, or the 11 ligature mark, let's describe that --</p> <p>12 A. The whole thing's a ligature mark.</p> <p>13 Q. You're right, the whole thing is a 14 ligature mark. Okay. There's just some part of 15 it, though, where you can see the actual line from 16 the ligature; right?</p> <p>17 A. Well, no. You can see the line from the 18 ligature everywhere you see ligature furrow. 19 There's only part where you can see that notching 20 pattern on the edge.</p> <p>21 Q. Okay. So are you saying that you see the 22 ligature furrow on the right side of Jaqueri's 23 neck?</p> <p>24 A. Oh, sure, except once you get to the gap.</p>	<p style="text-align: right;">200</p> <p>1 here. Are we looking at the same picture? 'Cause 2 I can't really read the Bates stamp against the --</p> <p>3 Q. Yeah, that's it. Do you see the 4 impression made from the ligature in this picture?</p> <p>5 A. I do.</p> <p>6 Q. Where is that?</p> <p>7 A. It's about two-and-a-half centimeters 8 above the edge of the scale.</p> <p>9 Q. Can you point towards the camera and 10 point to it on the picture, please?</p> <p>11 A. Can you see that okay over there? Okay.</p> <p>12 Right here.</p> <p>13 Q. Now, is that the impression --</p> <p>14 MS. SUSLER: His hand's in the way of the 15 camera.</p> <p>16 MS. MOGUL: Where your pinky is.</p> <p>17 THE VIDEOGRAPHER: I can't see with the 18 hand there.</p> <p>19 THE WITNESS: How's that? Right there.</p> <p>20 BY MS. MOGUL:</p> <p>21 Q. Yeah. Now, are you pointing towards that 22 line you see on the picture?</p> <p>23 A. Yes, the ligature furrow.</p> <p>24 Q. Is that the -- okay. Are you -- okay.</p>
<p style="text-align: right;">199</p> <p>1 Obviously underneath that gap -- I mean, a gap 2 means there's no furrow. But everywhere else you 3 see a mark, that would be called a ligature furrow.</p> <p>4 Q. Do you have the medical examiner's report 5 with you?</p> <p>6 A. No.</p> <p>7 Q. Okay.</p> <p>8 MR. KAMIONSKI: Do you have it?</p> <p>9 MS. MOGUL: You don't have it?</p> <p>10 MR. KAMIONSKI: Here, I can get it for 11 him.</p> <p>12 (Pause in the proceedings.)</p> <p>13 MS. MOGUL: Let's use this for a second.</p> <p>14 MR. KAMIONSKI: I can pull up the 15 pictures on my computer also, probably. Make 16 things a little clearer.</p> <p>17 (Pause in the proceedings.)</p> <p>18 THE WITNESS: This is a copy.</p> <p>19 MR. KAMIONSKI: Yeah, I know, I know.</p> <p>20 BY MS. MOGUL:</p> <p>21 Q. I'm going to ask you to turn to page 66, 22 the last picture. This is Exhibit 96Z that we 23 previously marked in this case.</p> <p>24 A. I'm having a hard time -- wait a minute</p>	<p style="text-align: right;">201</p> <p>1 Is that a TRAM mark there?</p> <p>2 A. A what?</p> <p>3 Q. A TRAM mark. TRAM. Have you heard the 4 word TRAM? TRAM.</p> <p>5 A. Not in this context. You mean like a 6 train?</p> <p>7 Q. No, no, no. It's a --</p> <p>8 A. What's a TRAM mark?</p> <p>9 Q. You've never heard that? Okay. I've 10 heard other pathologists use the word TRAM mark.</p> <p>11 Train.</p> <p>12 A. No, I understand, I just, I've never used 13 that with respect to a ligature furrow.</p> <p>14 Q. Okay. In this case, I mean, is that the 15 pale impression from the mark there from the 16 ligature?</p> <p>17 A. No, no. I was -- maybe you couldn't see 18 that I was pointing to this dark line.</p> <p>19 Q. Yes.</p> <p>20 A. This is a lousy copy. This dark line, 21 and then continues onto the front of the neck, is 22 the ligature furrow.</p> <p>23 Q. I see. I just want to be clear. Okay.</p> <p>24 And -- okay. So that -- that ligature furrow that</p>

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<p>1 you're pointing to on the right side of the neck 2 there, right?</p> <p>3 A. Uh-huh.</p> <p>4 Q. That's thinner than the ligature furrow 5 on the left side of the neck?</p> <p>6 A. It is.</p> <p>7 Q. Okay. Now, in this case, your belief 8 that this was -- this furrow was not complex, 9 composed of multiple lines around his neck, is 10 based on the idea that there were no pinch marks 11 found?</p> <p>12 A. That's one possibility that you can see 13 with multiple loops. In other words, multiple 14 loops all with traction, there'll be uninjured skin 15 in between the loops. That's the pinch marks. 16 Sometimes you'll see pale, red, pale, red, pale, 17 red. The other possibility is that you'll just see 18 multiple furrows in the neck. Depends on the 19 nature of the ligature and how close the loops are, 20 that sort of a thing.</p> <p>21 Q. Well, I'm going to ask you to look at 22 page 25 of this exhibit.</p> <p>23 A. All right. Are we looking at the same 24 picture?</p>	<p>1 Q. And so what is that then?</p> <p>2 A. That's just -- that's just some red, some 3 pale. But that's not what a pinch mark looks like.</p> <p>4 Q. How do you know that's not made from 5 multiple lines of the band being around his neck?</p> <p>6 A. Well, it'd have to be pretty much on top 7 of each other given the, how would you say it, one 8 end, all right? So I guess if you place -- if you 9 had one loop around the neck and then precisely 10 place all the rest right on top of that, all right, 11 then that would look like a single furrow. But 12 you'd have to have amazing precision to make that 13 happen. I've never seen it. For all the ligatures 14 I've taken off of necks, I've never seen that.</p> <p>15 Q. But it's possible that could have 16 happened in this case; correct?</p> <p>17 A. Well, you get to the point where if that 18 were so, then for that to work, the whole thing 19 would have to be canted, then, to make this 20 accident. See what I'm saying? So if you had 21 everything wrapped precisely, and now it's being 22 done by this little boy, the whole furrow would 23 have to be canted to account for the traction from 24 the bed. It wasn't. So it simply doesn't work.</p>
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<p>1 Q. Yeah.</p> <p>2 A. Okay.</p> <p>3 Q. You see on the left side --</p> <p>4 MR. KAMIONSKI: I'm trying to pull it up 5 to follow you guys.</p> <p>6 BY MS. MOGUL:</p> <p>7 Q. You see on the left side of that, of his 8 neck, there's two lines there, right, or two marks?</p> <p>9 There's a line and another mark; right?</p> <p>10 A. I do.</p> <p>11 Q. You wouldn't say that the top line -- the 12 top mark there and the line below that's a pinch 13 mark?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. You have to see a pinch mark to get it. 17 Pinch mark would be like pale, red, pale, and you 18 can see, not exactly petechial hemorrhage, but 19 certainly capillary-type hemorrhage in that 20 interval. That's not what this is.</p> <p>21 Q. It looks pale, red, red, pale, red to me.</p> <p>22 A. Right, I get that.</p> <p>23 Q. But and --</p> <p>24 A. But that's not what it is.</p>	<p>1 Q. But again, that's just based on your 2 conception that the only way this could have been 3 an accidental death if it was hanging.</p> <p>4 A. Well, to have enough traction for this to 5 be lethal, there'd have to be traction.</p> <p>6 Q. Okay.</p> <p>7 A. To have traction, you have to have pull. 8 And to have pull, you're talking about attached up 9 to the top of the bunk bed down to where he is. I 10 go back to my analogy of trying to strangle 11 yourself to death. You can't do it.</p> <p>12 Q. But in this case -- in this case, the 13 father said that when he found Jaqueri, the string 14 was wrapped multiple times around his neck, and it 15 was obviously wrapped several times around the 16 other layers because he could not find the free 17 end.</p> <p>18 A. Well, I'm not sure if that's so obvious. 19 What I know at the end of the day is there's a 20 single ligature furrow, okay? So what that tells 21 me, if there were in fact multiple loops around the 22 neck, there couldn't have been traction on all of 23 them. There would have had to have been extremely 24 precise placement to only cause one furrow. And</p>
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<p>1 you're pointing to on the right side of the neck 2 there, right?</p> <p>3 A. Uh-huh.</p> <p>4 Q. That's thinner than the ligature furrow 5 on the left side of the neck?</p> <p>6 A. It is.</p> <p>7 Q. Okay. Now, in this case, your belief 8 that this was -- this furrow was not complex, 9 composed of multiple lines around his neck, is 10 based on the idea that there were no pinch marks 11 found?</p> <p>12 A. That's one possibility that you can see 13 with multiple loops. In other words, multiple 14 loops all with traction, there'll be uninjured skin 15 in between the loops. That's the pinch marks. 16 Sometimes you'll see pale, red, pale, red, pale, 17 red. The other possibility is that you'll just see 18 multiple furrows in the neck. Depends on the 19 nature of the ligature and how close the loops are, 20 that sort of a thing.</p> <p>21 Q. Well, I'm going to ask you to look at 22 page 25 of this exhibit.</p> <p>23 A. All right. Are we looking at the same 24 picture?</p>	<p>1 Q. And so what is that then?</p> <p>2 A. That's just -- that's just some red, some 3 pale. But that's not what a pinch mark looks like.</p> <p>4 Q. How do you know that's not made from 5 multiple lines of the band being around his neck?</p> <p>6 A. Well, it'd have to be pretty much on top 7 of each other given the, how would you say it, one 8 end, all right? So I guess if you place -- if you 9 had one loop around the neck and then precisely 10 place all the rest right on top of that, all right, 11 then that would look like a single furrow. But 12 you'd have to have amazing precision to make that 13 happen. I've never seen it. For all the ligatures 14 I've taken off of necks, I've never seen that.</p> <p>15 Q. But it's possible that could have 16 happened in this case; correct?</p> <p>17 A. Well, you get to the point where if that 18 were so, then for that to work, the whole thing 19 would have to be canted, then, to make this 20 accident. See what I'm saying? So if you had 21 everything wrapped precisely, and now it's being 22 done by this little boy, the whole furrow would 23 have to be canted to account for the traction from 24 the bed. It wasn't. So it simply doesn't work.</p>
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<p>1 Q. Yeah.</p> <p>2 A. Okay.</p> <p>3 Q. You see on the left side --</p> <p>4 MR. KAMIONSKI: I'm trying to pull it up 5 to follow you guys.</p> <p>6 BY MS. MOGUL:</p> <p>7 Q. You see on the left side of that, of his 8 neck, there's two lines there, right, or two marks?</p> <p>9 There's a line and another mark; right?</p> <p>10 A. I do.</p> <p>11 Q. You wouldn't say that the top line -- the 12 top mark there and the line below that's a pinch 13 mark?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. You have to see a pinch mark to get it. 17 Pinch mark would be like pale, red, pale, and you 18 can see, not exactly petechial hemorrhage, but 19 certainly capillary-type hemorrhage in that 20 interval. That's not what this is.</p> <p>21 Q. It looks pale, red, red, pale, red to me.</p> <p>22 A. Right, I get that.</p> <p>23 Q. But and --</p> <p>24 A. But that's not what it is.</p>	<p>1 Q. But again, that's just based on your 2 conception that the only way this could have been 3 an accidental death if it was hanging.</p> <p>4 A. Well, to have enough traction for this to 5 be lethal, there'd have to be traction.</p> <p>6 Q. Okay.</p> <p>7 A. To have traction, you have to have pull. 8 And to have pull, you're talking about attached up 9 to the top of the bunk bed down to where he is. I 10 go back to my analogy of trying to strangle 11 yourself to death. You can't do it.</p> <p>12 Q. But in this case -- in this case, the 13 father said that when he found Jaqueri, the string 14 was wrapped multiple times around his neck, and it 15 was obviously wrapped several times around the 16 other layers because he could not find the free 17 end.</p> <p>18 A. Well, I'm not sure if that's so obvious. 19 What I know at the end of the day is there's a 20 single ligature furrow, okay? So what that tells 21 me, if there were in fact multiple loops around the 22 neck, there couldn't have been traction on all of 23 them. There would have had to have been extremely 24 precise placement to only cause one furrow. And</p>

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<p style="text-align: right;">206</p> <p>1 again, to have that happen, plus that point of 2 suspension, you'd have to have angling. You don't. 3 It's just not consistent.</p> <p>Q. Well, I'm just saying -- back to this 5 picture. How do you know the string wasn't, at 6 that point, around one part of his neck and then 7 another part of the string was around that part, 8 and it -- like there could be parts of the string 9 that overlapped and a part -- and that spot on his 10 neck that didn't.</p> <p>11 A. Based on the pattern on the left side 12 with the jagged edge, that can't be, though.</p> <p>Q. Why?</p> <p>14 A. Because you have to eat your cake and 15 have it too. What you'd be saying is, it's 16 precisely lined up geometrically on one part of the 17 neck, and yet it's splayed into multiple on another 18 part of the neck, and it's not canted. You can't 19 have all those three things together. It doesn't 20 work.</p> <p>Q. Well in this case, if the child had 22 wrapped it around his neck and -- a few times, and 23 then he -- and then it -- he fell or it pinched or 24 he stepped away and it pulled, that would cause him</p>	<p style="text-align: right;">208</p> <p>1 accident issue. You don't believe it could be an 2 accident 'cause it's not decanted. And maybe -- 3 A. Because it's essentially horizontal, 4 because it's not canted.</p> <p>Q. Okay.</p> <p>6 A. Because there are floored petechiae. For 7 those three reasons, just with respect to the 8 injury on the neck, I don't believe it was an 9 accident. Those three things together.</p> <p>Q. So just looking at that picture, to the 11 right of those two lines there that I'm going to 12 describe it as, do you see another bruise on the 13 neck there?</p> <p>14 A. No, I see skin fold. But essentially, as 15 I said earlier, the posterior midline is where this 16 furrow disappears, and then we've got uninjured 17 skin. And this is really kind of a lousy copy, but 18 Dr. Denton described the furrow as ending beneath 19 the right ear. So that would be the gap.</p> <p>Q. Okay. Would you say there was petechiae 21 or -- well, let me ask this. Would you agree there 22 was redness found throughout the entire head?</p> <p>23 A. I am not even sure how to answer that. 24 Redness through the head?</p>
<p style="text-align: right;">207</p> <p>1 to start losing consciousness; that could cause the 2 elastic to tighten; correct?</p> <p>3 A. Well, no, because you see, if he's 4 starting to lose consciousness, it's tight enough 5 already. Now what you're saying is he loses 6 consciousness, then it falls and it tightens. No, 7 it's already tight. If it's already tight and he 8 falls, now it becomes canted. And it wasn't. 9 That's the problem.</p> <p>Q. Okay. So basically you're saying that -- 11 I want to be clear. In this instance, you're just 12 saying that you don't believe that that picture, 13 page 25, indicates that there were multiple loops 14 around the neck. And if it -- and in your 15 testimony -- correct? Let me just start there. 16 Right?</p> <p>17 A. Let me put it very clearly. The best 18 portion of furrow that shows pattern on the left 19 side that has that sawtooth pattern on the top 20 indicates there was a single loop of tension 21 applied to it.</p> <p>Q. I understand that. But you're saying 23 that you don't believe that there was -- okay. You 24 don't believe -- I guess my thing is back to this</p>	<p style="text-align: right;">209</p> <p>1 Q. Yeah, that his whole head, his whole head 2 and face was red.</p> <p>3 A. It was more brown.</p> <p>Q. Okay. Was there petechiae found 5 throughout?</p> <p>6 A. Facial -- okay. There were facial 7 petechiae that involved the entire face, sure.</p> <p>Q. Okay. And I guess -- but just back to 9 this multiple lines issue. I'm saying isn't it 10 possible that the string was wrapped multiple times 11 around his neck, and the reason we don't see the 12 multiple lines is because it folded over onto 13 itself? And you're saying you don't think that's 14 possible?</p> <p>15 A. I believe there were multiple wraps 16 around the neck in accordance with his dad's 17 testimony. I also believe that tension was only 18 applied to one loop, or U shape, to cause death.</p> <p>Q. Okay. And I guess, do you believe that 20 the string overlapped on itself when it was wrapped 21 around his neck?</p> <p>22 A. I think the -- what we see on the left 23 side there is enough to say while there may have 24 been overlap, there's only tension applied to the</p>

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<p>1 one loop.</p> <p>2 Q. Okay. So you're not in fact contesting 3 that this was wrapped multiple times around his 4 neck?</p> <p>5 A. I'm agreeing with the testimony, both at 6 deposition and at trial, based on how his father 7 found him, that there were multiple loops. But 8 again, only tension on one caused death.</p> <p>9 Q. So in this case, the petechiae being 10 present, that indicates that his jugular vein, or 11 jugular veins, were cut off, but not the carotid 12 arteries; is that fair?</p> <p>13 A. I think that's the generally accepted 14 mechanism for petechiae, yes.</p> <p>15 Q. Now, you also made some soft findings 16 regarding the muscle hemorrhages in this case; 17 right?</p> <p>18 A. I did.</p> <p>19 Q. And those are based on him, Dr. Denton, 20 flailing the skin and seeing various injuries in 21 the upper shoulders and back; right?</p> <p>22 A. Correct.</p> <p>23 Q. Is it possible that those were injuries 24 were caused by the CPR in this case -- that was</p>	<p>1 you mean by that?</p> <p>2 A. Bleeding. I mean, blood flowing under 3 pressure. There's no pressure.</p> <p>4 Q. You're saying there's no bleeding 5 injuries that could happen postmortem?</p> <p>6 A. I don't think I would use the term 7 "bleeding injury." I'm fine with using that term, 8 but there's no blood pressure postmortem, so you 9 don't get focal hemorrhage like this. You get 10 postmortem lividity as blood settles, but that's 11 not focal.</p> <p>12 Q. Can you get injuries -- any sort of 13 bruising injuries postmortem?</p> <p>14 A. Bruising. I mean, again, bruising 15 implies antemortem. Can you get blood drainage 16 postmortem? Sure you can. Can you get blood 17 drainage in an area like around the eyes if 18 somebody's positioned face down? Sure you can. 19 Can you get spot hemorrhage like this? No.</p> <p>20 Q. Okay. You couldn't get the petechiae in 21 the head, you're saying, if he was face down?</p> <p>22 A. Right.</p> <p>23 Q. Okay. Now, you also opined that -- you 24 also opined that the muscle hemorrhages in this</p>
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<p>1 done in this case?</p> <p>2 A. I've never seen that before. I guess 3 theoretically. But in a lot of flayed cases, I've 4 not seen those kind of hemorrhages before.</p> <p>5 Q. But it is possible that those could have 6 been caused by the CPR?</p> <p>7 A. I think theoretically, they could be.</p> <p>8 Q. And it's also possible that those 9 injuries could have been inflicted postmortem; 10 right?</p> <p>11 A. No.</p> <p>12 Q. No?</p> <p>13 A. No. You don't get hemorrhages like that.</p> <p>14 There's no more circulation.</p> <p>15 Q. Can injuries to a person be inflicted 16 postmortem?</p> <p>17 A. Well, every time we do an autopsy, we're 18 inflicting postmortem injury, but they aren't 19 hemorrhagic. I've never seen one of our patients 20 bleed.</p> <p>21 Q. Okay. So you're saying no bleeding 22 injuries could happen postmortem?</p> <p>23 A. Bleeding does not happen postmortem, no.</p> <p>24 Q. Okay. Well, okay, hemorrhagic, what do</p>	<p>1 case could have been from the -- in his shoulders 2 and right upper back could be from someone holding 3 him down by the back and shoulders?</p> <p>4 A. Sure. That would be consistent with 5 that.</p> <p>6 Q. How exactly would they be holding him 7 down?</p> <p>8 A. With pressure.</p> <p>9 Q. With what? How would they exert that 10 pressure?</p> <p>11 A. Well, again, I've never actually seen 12 somebody killed, but I can imagine knee, knees, 13 elbow, wrists, fingers, hands, feet.</p> <p>14 Q. Would those kind of impressions made by 15 the knees or the hands leave some sort of marking 16 on the external body, on Jaqueri's body?</p> <p>17 A. Potentially, yes, but there were no such 18 markings. So can you have something like that 19 happen with nothing on the skin? Sure.</p> <p>20 Q. How much force -- in this case, how much 21 force was needed to occlude Jaqueri's airways and 22 kill him?</p> <p>23 A. His airway wasn't occluded, and that's 24 not what killed him.</p>

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<p style="text-align: right;">214</p> <p>1 Q. What did kill him in this case?</p> <p>2 A. It's a neurovascular death. It's</p> <p>3 pressure on the veins, mostly. Also potentially</p> <p>4 pressure on the carotid body that triggers a heart</p> <p>5 slowdown. And that's just a few pounds of</p> <p>6 pressure. Substantially less than airway</p> <p>7 compression.</p> <p>8 Q. Okay. I think we went over this. In</p> <p>9 this case, these are the soft findings you made</p> <p>10 regarding these muscle hemorrhages; right?</p> <p>11 A. Yeah, soft in the sense that they aren't</p> <p>12 diagnostic, right.</p> <p>13 Q. And those injuries could have been caused</p> <p>14 by, let's say if he had fallen and tripped on the</p> <p>15 ground?</p> <p>16 A. I think that's possible, sure.</p> <p>17 Q. Okay. Or if he had banged into something</p> <p>18 in the house?</p> <p>19 A. Or something banged into him, sure.</p> <p>20 Q. Right. Okay. But there's no way you can</p> <p>21 tell how those injuries in either his mouth or</p> <p>22 shoulders and back were caused?</p> <p>23 A. All I can say is that they're blunt force</p> <p>24 injury. Not for sure the injury in his mouth. If</p>	<p style="text-align: right;">216</p> <p>1 times around Jaqueri's neck and then pulled that</p> <p>2 string?</p> <p>3 A. There could have been multiple loops</p> <p>4 wrapped around the neck with then pulling happening</p> <p>5 to one loop. That would be consistent.</p> <p>6 Q. Right. But that one loop, what I'm</p> <p>7 asking is -- let's say the string was wrapped</p> <p>8 multiple times around his neck, and then the loose</p> <p>9 part of the string that was from the bed sheet,</p> <p>10 that part, or the -- if they pulled from the</p> <p>11 string, would that -- is that -- would you say</p> <p>12 that's consistent with the physical findings?</p> <p>13 A. I don't think so. I think you have to</p> <p>14 have essentially both ends anchored, if you will.</p> <p>15 If you just pulled one, I could see that causing</p> <p>16 injury right where that first touches the neck, but</p> <p>17 not all the way around. I don't think that would</p> <p>18 work, no.</p> <p>19 Q. Okay. So just to be clear, the two</p> <p>20 scenarios you've provided is a U-shaped -- U-shaped</p> <p>21 use of the elastic band where both ends are being</p> <p>22 held?</p> <p>23 A. Right.</p> <p>24 Q. The other is multiple loops around his</p>
<p style="text-align: right;">215</p> <p>1 those had been caused by a fall, for example, I</p> <p>2 would expect nose injury, since that's more</p> <p>3 prominent. So we have to look at more specific</p> <p>4 types of injury there. But they're not</p> <p>5 specifically diagnostic, not like the furrow.</p> <p>6 Q. And how old were these injuries?</p> <p>7 A. I think they were fresh.</p> <p>8 Q. When you say "fresh," what does that</p> <p>9 mean?</p> <p>10 A. That means just what I said, fresh.</p> <p>11 Q. Well --</p> <p>12 A. I mean, they're antemortem injuries, and</p> <p>13 they're not days old. But we don't have a</p> <p>14 scientific way to be any more precise.</p> <p>15 Q. What is antemortem?</p> <p>16 A. Oh, before death. A-N-T-E.</p> <p>17 Q. You're saying they're a day old?</p> <p>18 A. No.</p> <p>19 Q. They're within a day old?</p> <p>20 A. I think they're not older. Yeah, they're</p> <p>21 not days old. But we don't have a scientific way</p> <p>22 to be any more precise.</p> <p>23 Q. In this case, is it consistent or</p> <p>24 inconsistent if someone wrapped the string multiple</p>	<p style="text-align: right;">217</p> <p>1 neck, and then one of those loops being grabbed off</p> <p>2 the neck and pulled?</p> <p>3 A. Right.</p> <p>4 Q. But it's not the pulling from the end of</p> <p>5 the sheet that's attached to the bed?</p> <p>6 A. No, it has to be symmetrical. If you</p> <p>7 just pull one side, it's not going to do it. It's</p> <p>8 gotta be symmetrical.</p> <p>9 Q. So someone merely wrapping the string</p> <p>10 around his neck and pulling that string, that would</p> <p>11 not have caused the death?</p> <p>12 A. That wouldn't be symmetrical, and I think</p> <p>13 you probably couldn't generate enough force that</p> <p>14 way either.</p> <p>15 Q. Do you dispute Dr. Denton's testimony</p> <p>16 that Jaqueri did not bleed from the nose when he</p> <p>17 was strangled?</p> <p>18 A. I think the issue here is he described</p> <p>19 fluid from the nose at autopsy. Bleeding would be</p> <p>20 a specific diagnosis. And I think as a forensic</p> <p>21 pathologist, he's trying to be precise. One of the</p> <p>22 findings with asphyxial death is pulmonary</p> <p>23 congestion and edema. That fluid would be properly</p> <p>24 termed serosanguineous, so it's a mixture of serum</p>

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<p>1 and blood. It's not blood per se. So I would 2 agree he did not bleed from the nose; I think it 3 was serosanguineous fluid. Different mechanism. 4 Q. So you agree with Dr. Denton's testimony 5 that he did not bleed from the nose when he was 6 strangled?</p> <p>7 A. Right.</p> <p>8 Q. Okay. And in your report, though, you 9 said that you believe the serosanguineous blood 10 that was found -- or strike that. It wasn't blood; 11 right?</p> <p>12 A. Right.</p> <p>13 Q. Let's -- strike that. Okay. Okay. But 14 you added into your opinion that the serosanguinous 15 fluid could look like blood to the naked eye?</p> <p>16 A. Right.</p> <p>17 Q. But no one in fact described it as 18 looking like blood, did they?</p> <p>19 A. Well, serosanguinous fluid does look like 20 blood, it's just thinner. Serosanguinous fluid 21 would be an autopsy finding. We talk about 22 serosanguinous out of the cavities, out of the 23 lung, whatever. It seems to me that his dad may 24 have talked about blood coming from the nose. That</p>	<p>1 A. Those are cancer cases. 2 Q. I see. In State versus Rivera, you 3 testified at a post-conviction hearing. Page 3 of 4 your --</p> <p>5 A. Yeah, I see that. That doesn't come up 6 really often, but occasionally we'll do an appeal 7 hearing, be asked to.</p> <p>8 Q. What was the testimony you provided in 9 that case?</p> <p>10 A. I don't remember. That kind of a thing 11 here would be because we did have a previous chief 12 medical examiner that left the state; he's 13 practicing in a different state; we had one that 14 passed away. So it might have been something like 15 that, where the person who did the autopsy wasn't 16 available and they needed somebody to talk about 17 it.</p> <p>18 MS. MOGUL: I don't have anything else. 19 MR. KAMIONSKI: Reserve. 20 MR. FLYNN: No questions. 21 MR. KAMIONSKI: No questions. Reserve. 22 THE VIDEOGRAPHER: This ends the video 23 deposition of Brian L. Peterson, M.D., on March 11, 24 2016. The time, 1:28 p.m.</p>
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<p>1 would be a common lay observation.</p> <p>2 Q. Oh, is that your belief, that Mr. Dancy 3 described it as blood?</p> <p>4 A. Right.</p> <p>5 Q. Can you tell me where Mr. Dancy described 6 it as blood?</p> <p>7 A. I couldn't give you a page number.</p> <p>8 Q. Is it possible you're wrong that he 9 described it as blood?</p> <p>10 A. Sure. I mean, I think we can all agree 11 on the serosanguinous fluid at autopsy. I would 12 happily rest with that.</p> <p>13 MS. MOGUL: Okay. I want a minute few 14 minutes to talk to my co-counsel.</p> <p>15 THE VIDEOGRAPHER: We are going off the 16 record at 1:19 p.m.</p> <p>17 (Break taken.)</p> <p>18 THE VIDEOGRAPHER: We are back on the 19 record at 1:26 p.m.</p> <p>20 BY MS. MOGUL:</p> <p>21 Q. Turning back to your expert report in 22 this case, Exhibit 151, there's a lot of -- in your 23 descriptions where you describe progeny, angle 24 progeny?</p>	<p>1 STATE OF WISCONSIN) 2) ss. 3 COUNTY OF MILWAUKEE) 4 I, ANITA KORNBURGER-FOSS, Registered 5 Professional Reporter and Notary Public in and 6 for the State of Wisconsin, do hereby certify 7 that the preceding deposition was recorded by 8 me and reduced to writing under my personal 9 direction. 10 I further certify that said deposition was 11 taken at 933 West Highland Avenue, Milwaukee, 12 Wisconsin, on March 11, 2016, commencing at 13 9:02 a.m. and concluding at 1:28 p.m. 14 I further certify that I am not a relative 15 or employee or attorney or counsel of any of 16 the parties, or a relative or employee of such 17 attorney or counsel, or financially interested 18 directly or indirectly in this action. 19 In witness whereof, I have hereunto set my 20 hand and affixed my seal of office at 21 Milwaukee, Wisconsin, this 22nd day of March, 22 2016. 23 _____ 24 ANITA KORNBURGER-FOSS, RPR - Notary Public My commission expires May 13, 2017.</p>

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2 STATE OF WISCONSIN)
3 COUNTY OF MILWAUKEE)
4

5 I, Brian Peterson, MD, do hereby certify
6 that I have read the foregoing transcript of
7 proceedings taken on the 11th day of March,
8 2016, at 933 West Highland Street, Milwaukee,
9 Wisconsin, and the same is true and correct
10 except for the list of corrections, if any,
11 noted on the annexed errata sheet.

12
13
14 Dated at , this
15 (city) (state)
16

17 , of , 2016.
18 (Day) (Month)
19

20
21
22 Brian Peterson, MD
23
24

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